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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1996

Addendum

GEORGIA

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CONTENTS

	Paragraphs	Page
Introduction	1 - 5	5
I. GENERAL MEASURES OF IMPLEMENTATION	6 - 26	5
II. DEFINITION OF THE CHILD	27 - 55	9
III. GENERAL PRINCIPLES	56 - 79	13
A. Non-discrimination (art. 2)	56 - 63	13
B. Best interests of the child (art. 3)	64 - 73	14
C. Right to life, survival and development (art. 6)	74 - 76	15
D. Respect for the views of the child (art. 12)	77 - 79	16
IV. CIVIL RIGHTS AND FREEDOMS	80 - 134	16
A. Name and nationality (art. 7)	80 - 85	16
B. Preservation of identity (art. 8)	86 - 90	18
C. Freedom of expression (art. 13)	91 - 98	18
D. Access to appropriate information (art. 17)	99 - 107	19
E. Freedom of thought, conscience and religion (art. 14)	108 - 114	20
F. Freedom of association and of peaceful assembly (art. 15)	115 - 122	21
G. Inviolability of privacy (art. 16)	123 - 129	23
H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37.1)	130 - 134	24
V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE	135 - 196	24
A. Parental guidance (art. 5)	135 - 141	24
B. Parental responsibilities (art. 18.1-2)	142 - 147	25
C. Separation from parents (art. 9)	148 - 152	26

CONTENTS (continued)

		Paragraphs	Page
	D. Family reunification (art. 10)	153 - 157	27
	E. Recovery of maintenance for the child (art. 27.4)	158 - 164	28
	F. Children deprived of a family environment (art. 20)	165 - 172	29
	G. Adoption (art. 21)	173 - 182	30
	H. Illicit transfer and non-return (art. 11)	183 - 185	32
	I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)	186 - 193	32
	J. Periodic review of placement (art. 25)	194 - 196	34
VI.	BASIC HEALTH AND WELFARE	197 - 248	34
	A. Survival and development (art. 6.2)	197 - 199	34
	B. Disabled children (art. 23)	200 - 210	35
	C. Health and health care (art. 24)	211 - 236	37
	D. Social security and child-care services and facilities (arts. 26 and 18.3)	237 - 242	42
	E. Standard of living (art. 27.1-3)	243 - 248	44
VII.	EDUCATION, LEISURE AND CULTURAL ACTIVITIES	249 - 268	44
	A. Education, including vocational training and guidance (art. 28)	249 - 259	44
	B. Aims of education (art. 29)	260 - 262	46
	C. Leisure, recreation and cultural activities (art. 31)	263 - 268	47
VIII.	SPECIAL PROTECTION MEASURES	269 - 314	48
	A. Children in situations of emergency	269 - 277	48
	1. Refugee children (art. 22)	269 - 276	48
	2. Children in armed conflicts	277	49

CONTENTS (continued)

	Paragraphs	Page
B. Children in conflict with the law	278 - 295	50
1. The administration of juvenile justice (art. 40)	278 - 285	50
2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))	286 - 295	51
C. Children in situations of exploitation	296 - 314	53
1. Economic exploitation, including child labour (art. 32)	296 - 300	53
2. Drug abuse (art. 33)	301 - 305	53
3. Sexual exploitation and sexual abuse (art. 34)	306 - 310	54
4. Sale, traffic and abduction (art. 35) . . .	311 - 312	55
D. Children belonging to minorities or an indigenous group (art. 30)	313 - 314	55

Introduction

1. This report is the initial document prepared in accordance with the requirements of article 44 of the Convention on the Rights of the Child reflecting the de facto implementation of the Convention by the State party. The report covers the period from July 1994 to the date of its submission.

2. The report has been prepared by a group of experts in accordance with instructions issued by the deputy secretary of the National Security Council of Georgia pursuant to Presidential Order No. 593 dated 27 November 1997. In preparing the report use was made of materials supplied by legislative and executive organs of the State, data from non-governmental organizations, mass-media publications and sociological research materials.

3. The core document submitted earlier together with Georgia's initial report on the implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights has been submitted at the same time as the present report with the necessary corrections.

4. The delay in submitting the report is due to the fact that we do not have a permanently functioning structure specializing in the preparation of national reports.

5. No other document submitted on behalf of Georgia and relating to the implementation in Georgia of the provisions of the Convention on the Rights of the Child may be regarded as a national report.

I. GENERAL MEASURES OF IMPLEMENTATION

6. Georgia became a party to the Convention on the Rights of the Child in accordance with a parliamentary decision of 21 April 1994, thereby assuming obligations relating to the implementation of the Convention's provisions. Under article 6 of the Constitution of Georgia, Georgian law conforms with universally recognized principles and norms of international law, and international treaties or agreements concluded by Georgia which are not inconsistent with the Basic Law have greater legal force than internal normative acts.

7. Article 7 of the Constitution provides as follows: "Georgia recognizes and protects universally recognized human rights and freedoms as inalienable and supreme human values. The exercise of power by the people and the State is subject to these rights and freedoms as it is to the laws directly in force."

8. Chapter II of the Georgian Constitution sets forth a series of rights to some extent applicable to the provisions of the Convention on the Rights of the Child. The Constitution does not deny other universally recognized rights, freedoms and guarantees of the person and citizen which are not specified in it but which arise from the principles it proclaims (art. 39).

9. In particular, the Georgian Constitution recognizes and guarantees the following rights and freedoms:

- Right to life (art. 15);
- Right of the human individual to free development of person (art. 16);
- Right to inviolability of the honour and dignity of the human individual, including prohibition of torture (art. 17);
- Freedom of speech, thought, conscience, religion and beliefs (art. 19);
- Inviolability of private life, home and other property of the human individual (art. 20);
- Right to property and inheritance (art. 21);
- Right to free movement throughout the territory of Georgia and to free choice of place of residence, right to freely leave and (for citizens) to freely enter Georgia (art. 22);
- Right to freely receive and disseminate information (art. 24);
- Right to freedom of peaceful assembly (art. 25);
- Right to form public associations (art. 26);
- Freedom of labour (art. 30);
- Right to education (art. 35);
- Right to apply to the courts for the protection of one's rights and freedoms (art. 42); and other rights and freedoms.

10. The following Acts promoting the implementation of the provisions of the Convention on the Rights of the Child have been adopted in Georgia before and since its accession to the Convention as part of the process of legal reform taking place in the country:

- Citizenship Act (March 1993);
- Immigration Act (July 1993);
- Emigration Act (July 1993);
- Act on temporary residence, entry and departure of foreigners (July 1993);
- AIDS Prevention Act (May 1995);
- National Ombudsman Act (May 1995);

- Act on the procedure for the registration and identification of Georgian citizens and of foreigners residing in Georgia (September 1996);

- Education Act (June 1997);

- Adoption Act (October 1997);

- Meetings and Demonstrations Act (June 1997);

- Civil Code (June 1997);

- Civil Procedural Code (June 1997);

- Criminal Procedural Code (November 1997).

Taken as a whole, the legal standards in force in Georgia, including those remaining from the Soviet period, meet the requirements of the Convention to a sufficient extent.

11. The principal government agencies dealing with matters covered by the Convention on the Rights of the Child within the framework of their respective mandates are the Ministry of Education, the Ministry of Health, the Ministry of the Interior, the Ministry of Social Welfare, Labour and Employment, and the Ministry for Refugee Affairs and Resettlement. The national parliament has a subcommittee on mother and child affairs.

12. The Ministry of Education implements national policies in the sphere of education and applies the official educational standards. It ensures the monitoring of, and the provision of methodological guidance to, all types and degrees of schools and kindergartens, including schools for children with physical disabilities requiring special educational approaches (boarding schools). The Ministry is also responsible for the higher education system. In addition, it deals with adoption matters through special trusteeship and guardianship agencies. The Ministry has a Department on the rights of the child.

13. The Ministry of Health is responsible, in particular, for ensuring the protection of the health of children. Within the framework of a programme of reorientation of the public health system which has been in process of implementation since August 1995, a national "Save the Children" programme providing for free (government-financed) medical care for infants from birth to 12 months is being carried out. A compulsory medical insurance system which has been introduced covers all Georgian citizens as well as foreign nationals and stateless persons living in Georgia, thus ensuring the payment of medical care costs under the relevant national programmes. The Ministry has a Department for the protection of the health of mothers and infants.

14. The Ministry of the Interior is responsible for the prevention and punishment of crimes and offences, including those committed by minors. In July 1996 the President of Georgia approved a programme for the period until the year 2000 which provides for social welfare and the prevention of offences among minors. The Directorate for the prevention of crime among minors has

been re-established with a view to the implementation of this programme. Inspectorates for the affairs of minors are operating throughout the country. Their duties include working with so-called "problem" teenagers. A Department for the protection of the rights of children has also been established within the Ministry.

15. The duties of the Ministry of Social Welfare, Labour and Employment include the preparation of the relevant State policies and monitoring the implementation of those policies. The Ministry regulates questions of employment, including that of minors, as well as of social assistance to needy persons, and deals with the affairs of the disabled, for which purpose it has a special Department which also deals with the affairs of disabled children.

16. The Ministry for Refugee Affairs and Resettlement deals with the problems of persons, including children, displaced from Abkhazia and South Ossetia. As is known, this category of persons emerged as a result of internal conflicts which took place in the country in the late 1980s and early 1990s and led to enforced mass migration of the (mainly Georgian) population from the conflict areas. The presence in Georgia of over 300,000 internally displaced persons is due to the fact that no political solution has yet been found to these conflicts.

17. The first National Ombudsman, who, in accordance with the Constitution, is entrusted with supervising the protection of human rights and freedoms in the territory of Georgia, was elected in October 1997. The establishment of a section for women's and children's problems within the office of the National Ombudsman is envisaged.

18. As for non-governmental organizations, it should be noted that, with rare exceptions, they do not deal in practice with questions pertaining to the rights of the child. Although 20 NGOs are registered with the Ministry of Justice as desiring to deal with children's problems, in actual fact these organizations are either not operating or have oriented their activities in some other direction. By way of exception, mention may be made of the Children's Fund, the Children's Federation, and an organization called "Children and their Environment" which deals with the problems of waifs and strays (so-called "street children").

19. The non-governmental organizations do not readily establish contacts with government agencies, preferring to deal with the international NGOs active in Georgia. This explains why the government agencies have little information about the activities of local non-governmental organizations dealing with matters pertaining to the rights of the child. For the same reason, there is a lack of coordination and interaction in respect of their activities, not to mention lack of participation on their part in the elaboration of policies on children's problems.

20. The parliamentary subcommittee on mother and child affairs participates in the preparation of draft laws which relate, if only partially, to children's problems or affect them to a significant extent. In practice, the subcommittee devotes considerable attention to the situation of children in pre-school establishments, children's homes and special boarding schools.

21. Since no national programme for the elaboration of policies in the field of protection of the rights of the child has been adopted as yet, there also exists no system for monitoring the implementation of the Convention. Steps in that direction are being undertaken as part of action pursuant to the Presidential Decree "On measures for strengthening the protection of human rights in Georgia" (June 1997), in accordance with which an interdepartmental commission has been established under the direction of the deputy secretary of the National Security Council on matters of protection of human rights. The commission is responsible for preparing urgent organizational measures in connection with human rights, including rights of the child. Representatives of the parliamentary committee on human rights and the problems of national minorities are also actively involved in this work.

22. In the period under review, Georgia received a large amount of humanitarian food aid earmarked for children from various international organizations. This will be discussed in detail further on.

23. A full and authentic translation of the text of the Convention into the official language (Georgian) is not available. The previously mentioned Presidential Decree provides for the publication in the near future of a compilation of international human rights documents which will include the text of the Convention.

24. A joint UNCHR/Centre for Human Rights and Government of Georgia project on strengthening the infrastructure for the protection and promotion of human rights (GEO/95/ANV/13), the implementation of which began in December 1997, provides for the translation into Georgian of the text of the Convention and the publication of 3,000 copies of the Convention.

25. Students in Georgian schools are informed about the Convention as part of classes on human rights, the provisions of the Convention being set forth in the form of 10 basic principles. The independent newspaper "Droni", which is disseminated throughout the country, has begun publishing the fundamental rights of children in a form accessible to children in its weekly children's supplement.

26. The relevant government departments have been shown the text of this report and have made comments and suggestions concerning it. The report is available to all interested non-governmental organizations.

II. DEFINITION OF THE CHILD

27. Under article 12 of the Civil Code, legal capacity is acquired upon the attainment of majority, which occurs at the age of 18 years. A minor (infant) below the age of 7 years is considered to have no legal capacity, while a minor aged between 7 and 18 years is considered to have limited legal capacity.

28. Article 15 of the Code provides that the expression of the will of a person having limited legal capacity is effective only with the consent of his or her legal representative, except in cases where the person with limited legal capacity is gainfully employed under a contract. The law allows for derogations from this rule, which will be discussed further on.

29. Under the Education Act, pre-school education is financed by the State. Primary education is compulsory. Basic education is provided by the State free of charge. The State also pays for the vocational training of persons who have received only primary education and have not reached the age of 18 years. Students in the three final years of general education schools have their studies financed out of the State budget if their chosen trade corresponds to the needs of industry.

30. Questions of minors' labour are regulated by the Labour Code, which permits the employment of persons from the age of 16. In exceptional cases and with the consent of the trade union of the enterprise, organization or institution concerned, a person having reached the age of 15 may be hired for work. In addition, with the consent of one of the parents or the guardian, and outside school hours, persons aged 14 are allowed to do light work that is not harmful to a child's health and does not interfere with the educational process. The Labour Code prohibits the employment of persons below the age of 18 in heavy work, work under harmful or hazardous conditions, and underground work. As regards working conditions for workers below 18 years of age, the Code establishes a number of restrictions aimed at protecting their health.

31. The Civil Code (vol. 1) sets the marriageable age at 18 years. In exceptional cases, marriage is allowed at age 16 subject to the written consent of the parents or other legal representatives. If the parents or other legal representatives withhold their consent, permission to contract marriage may be granted by the court in the presence of valid reasons on the basis of an application by the persons wishing to marry.

32. Enrolment for active military service, voluntary enlistment in the armed forces and participation in military actions are permitted from the age of 18 years.

33. Under the provisions of the Criminal Code, criminal responsibility for minors begins at age 16. For persons having committed exceptionally serious crimes, criminal responsibility begins at age 14. Such crimes include murder, grievous bodily harm, rape, robbery, etc. (in all, 11 categories).

34. If the court finds that a crime committed by a minor below the age of 18 does not constitute a serious threat to society and that the minor can be reformed without undergoing criminal punishment, it may apply compulsory corrective measures of an educational character, such as apology to the victim or reprimand; where the offender has reached the age of 15 and is gainfully employed, obliging him or her to compensate the damage caused; placing the minor under the strict control of the parents or their legal substitutes; appointing a guardian; placing the minor in a special educational or medico-educational establishment; etc.

35. Under the draft new Criminal Code (already adopted by Parliament on first reading), in determining the age of criminal responsibility, a person who at the time of the commission of the crime had reached the age of 14 but had not reached the age of 18 is considered a minor. The same criterion determines the range of penalties imposed upon persons in this category, account being taken of the minor's personality, state of health and other special factors characteristic of this age group.

36. The law determines the conditions under which minors may obtain early release on parole from serving the sentence imposed. A shorter statute of limitations and a shorter period for the expunction of previous convictions are applied to minors, and other privileges are also provided.

37. Penalties applicable to minors are regulated by the Code of Criminal Procedure. Under its article 81.1, detention and arrest can be applied to a minor as a punitive measure only in exceptional cases, taking into account the gravity of the crime, and on grounds specified by the Code of Criminal Procedure. Besides these measures, the minor can be placed, under supervision, under the guardianship or trusteeship of the parents (parent); minors in a special educational or medico-educational establishment may be placed under the supervision of that establishment's administration.

38. Administrative arrest is not applied to persons below 18 years of age.

39. Prior to 11 November 1997, the death penalty as the supreme measure of punishment was not applied to convicted persons below the age of 18 years. On 11 November 1997 the death penalty was abolished in Georgia and life imprisonment was introduced as the supreme measure of punishment. However, under article 25 of the Criminal Code, a person of less than 18 years of age cannot under any circumstances be sentenced to deprivation of liberty for a period exceeding 10 years.

40. Proceeding from the basic principles of the Constitution, the new Codes of Criminal and Civil Procedure provide for a number of guarantees for minors involved in the judicial process. The same procedural norms, governed by criteria of legality, humanism and justice, are applied to them as to persons who are of age. The principle of presumption of innocence is unconditionally applied to minors, as it is to other categories of persons; their right of defence is guaranteed, etc.

41. A person deprived of freedom unlawfully or in an unwarranted manner has the right to full compensation of the damage suffered.

42. The law guarantees the constitutional principle of inviolability of private life, home, correspondence and personal information. Seizing correspondence of any kind, checking or confiscating it is permitted only under a court order (order of the judge).

43. By a decision of the court, criminal cases concerning crimes committed by persons under the age of 16 years are considered wholly or partly in closed court if a party so requests.

44. Where this is warranted by the circumstances, the investigating judge announces the decision to prosecute to the accused not later than 48 hours after the adoption of the decision and conducts his/her interrogation in the presence of the educator, parent or other legal representative and of a lawyer.

45. A criminal prosecution cannot be initiated in the case of a person below the age of criminal responsibility.

46. The participation of a lawyer in court cases where a minor is appearing as the victim is compulsory and the costs of counsel to defend that minor's interests are covered by the State. The interests of a victim who is a minor may also be defended by his/her legal representative.

47. The court cannot accept a declaration by a minor refusing the services of a lawyer. In such a case the minor must be defended on a compulsory basis.

48. Where a witness aged below 14 years, or, at the discretion of the judge, between 14 and 18 years of age is interrogated in court, the presence of the educator is compulsory. The parents (or legal representatives) are also invited to attend where necessary. These persons may, with the permission of the court, address questions to the witness. In exceptional cases, according to a decision of the court, witnesses who are minors may be interrogated in the absence of the accused (the accused being informed of the contents of the testimony provided by the witness after he/she has returned to the court). After testifying, a witness aged below 16 years must be removed from the court.

49. Under article 15 of the Civil Code, only a person who is of age may submit complaints to the court or other similar body without the consent of the parents. Under article 81, the court must include minors aged between 7 and 18 years together with their legal representatives in the consideration of cases by the court. Insofar as the law allows minors to dispose independently of their property, conclude minor commercial transactions, etc., a minor has the right personally to defend his/her rights and lawful interests before the court and to appear as plaintiff, respondent or third party. The court may also, at the minor's request or on its own initiative, decide to include the minor's legal representative in the consideration of the case.

50. A change in personal data requires the consent of a child having reached the age of 10 years. A person has the right to change his/her name on reaching majority (Civil Code, art. 17). Where the family name of a child changes in consequence of a change of the family name of both or one of the parents, such change is effected by agreement between the parents. In the absence of such agreement, the question of changing the family name of a child below the age of 18 years whose family name was registered under the procedure for establishing paternity is decided on the basis of a declaration by both parents subject to the consent of a child having reached the age of 10 years (Ministry of Justice decision "On the procedure for the registration of civil status", 1996).

51. Under the Civil Code, an adopted child receives the family name of the adoptive parent at the request of the latter. This requires the consent of the child if he/she has reached the age of 10 years. The fact of acquisition or change of name is recorded in a court ruling. In this context it should be noted that adoption requires the consent of the child being adopted if he/she has reached the age of 10 years.

52. Minors who for any reason remain without parental care are placed under a guardian or tutor for the purpose of their education and the protection of

their personal and property rights and interests. A guardian is appointed in the case of infants below the age of 7 and a tutor in the case of minors between the ages of 7 and 18.

53. Problems of inheritance are linked with the individual's legal capacity, i.e. the capacity to exercise the civil rights and obligations which arise at the time of birth. The right to inherit arises at the time of conception, while the exercise of this right depends on birth. A minor may inherit in accordance with the law or under a will. A person born outside wedlock is considered to be the heir of his/her father if paternity has been established through a legal procedure.

54. Questions relating to the forming of associations, choice of religion, and education in a religious school are settled subject to the requirements of article 15 of the Civil Code: "The expression of the will of a person having limited legal capacity shall have effect only with the consent of his/her legal representative ...".

55. The sale of alcoholic beverages and beer to persons below the age of 18 is prohibited (order of the Ministry of Agriculture and Food dated 19 December 1996). Under provisions of the Criminal Code, involving a minor in drunkenness and making him/her drunk are acts subject to criminal punishment. The same applies to the use of narcotic drugs and substances for non-medical purposes.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

56. According to the Constitution, all persons are, from birth, free and equal before the law irrespective of race, skin colour, language, sex, religion, political or other views, national, ethnic or social status, origin, property and class status, and place of residence (art. 14). Citizens of Georgia have equal rights in social, economic, cultural and political life irrespective of their language and national, ethnic or religious status. In conformity with universal principles and norms of international law, they have the right, without any discrimination whatever, to develop their own culture (art. 38.1). Foreign nationals and stateless persons residing in Georgia have rights and obligations equal to those of Georgian citizens except in cases specified in the Constitution and the law (art. 47.1). The State is empowered to place restrictions on the political activities of foreigners and stateless persons (art. 27).

57. The State proclaims complete freedom of religious belief and creed and the independence of the church from the State (art. 9).

58. The State seeks to ensure the equal socio-economic development of the whole of Georgian territory. The law provides for privileges which guarantee the socio-economic advancement of high mountain regions (art. 31).

59. The constitutional provisions on the equality of Georgian citizens before the law and on the rights of foreigners are confirmed in the Georgian Citizenship Act (arts. 4 and 8).

60. Under the Act on the legal status of foreigners, foreign nationals in Georgia enjoy the same rights and freedoms and have the same obligations as Georgian citizens. Foreigners in Georgia are equal before the law irrespective of their origin, race, sex, views, etc.; the State assumes responsibility for protecting the life, personal inviolability, rights and freedoms of foreigners residing in Georgian territory (art. 3).

61. Article 75 of the Criminal Code, entitled "Breaches of the right to national or racial equality", provides for criminal penalties for "deliberate acts aimed at fomenting national or racial enmity or dissension, degrading national honour and dignity, or the direct or indirect restriction of the rights of citizens on grounds of their national or racial status and the establishment of direct or indirect privileges on such grounds".

62. Under the Education Act, everyone has the right to receive education (art. 3), while the State has the obligation to ensure equal conditions for receiving education throughout the national territory (art. 39.2). Principles of non-discrimination are also reflected in other Georgian laws.

63. The fact that Georgian society has become less homogeneous in terms of property and the commercialization of education and public health services have restricted the possibilities of access to these services for whole categories of children. Children of families in difficult social and economic circumstances, single-parent or parentless families, families of displaced persons and families some of whose members of working age are unemployed have proved particularly vulnerable. Families residing in the country's mountainous regions or in areas which are traditionally backward from the social and economic points of view, etc., find themselves in an extremely unfavourable position. Despite the non-discrimination provisions of the Constitutions and the laws, cases of discrimination against children still occur in daily life. Reports about such facts come from the media, non-governmental organizations and the relevant departments of government agencies responsible for applying the law.

B. Best interests of the child (art. 3)

64. The principle of priority of the best interests of the child is fundamental in the laws of our country. Article 36.3 of the Constitution provides that the rights of motherhood and childhood are protected by law.

65. Under the Civil Code, parents have the right and the duty to bring up their children, to care for their physical, mental, spiritual and social development and to educate them to be worthy members of society, giving primary consideration to their best interests (art. 1198.1,2). Similar provisions are also to be found in the Marriage and Family Code. Parents have equal rights and equal obligations in respect of their children even where they (the parents) are divorced. These obligations include maintenance of their children while they are minors (articles 1199 and 1212 of the Civil Code).

66. As an extreme measure, and exclusively on the basis of a judicial procedure, the law provides grounds for the withdrawal of parental rights. A parent (parents) can be deprived of parental rights if he/she (they)

systematically evade(s) responsibilities in connection with the upbringing of their children or abuse(s) their parental rights, e.g. by subjecting the children to cruel treatment, leading amoral lives, or being alcoholics or drug addicts. At the same time, withdrawal of rights does not release a parent from the obligation to maintain the child or children. One of the important conditions for the restitution of parental rights, which also has to be effected on the basis of a judicial procedure, is that such restitution must be in the best interests of the child. In carrying out the appropriate procedures, the court also takes into account the views of the child if he/she has reached the age of 10 years.

67. If leaving the child with one or both parents is harmful to the child for reasons over which the parents have no control, the court may decide to remove the child from the parent(s) without depriving them of parental rights and to place the child under the control of a guardianship or tutorship agency. A decision to return the child to the family may only be taken if the grounds for removing it are no longer present, bearing in mind the interests of the child and exclusively on the basis of a court procedure.

68. A child whose parent(s) has (have) been deprived of parental rights retains the right to his/her place of residence and property rights based on kinship. Where both parents have been deprived of parental rights, the child is placed under the control of a guardianship or tutorship agency.

69. Where the parents are divorced or living apart, the decision as to with which parent the minor child is to live is taken by agreement between the parents. In the absence of such agreement, the decision is taken by the court bearing in mind the interests of the child (children).

70. Under the Education Act, a child may receive pre-school education at home or in a pre-school establishment. The State provides pre-school education by financing it, creating the necessary infrastructures and training and appointing the necessary staff.

71. Institutional care for children deprived of a family environment for any reason, children whose development deviates from the norm, or children in conflict with the law is provided in establishments financed entirely by the State.

72. Where a child is left without parental care, the State considers adoption to be the most acceptable form of care. The arranging of adoptions is the exclusive prerogative of the State. The Adoption Act specially stipulates that adoption shall be effected on the basis of the interests and internationally recognized rights of the child.

73. Further details about the way in which the best interests of the children are taken into consideration in other spheres are provided below.

C. Right to life, survival and development (art. 6)

74. All normative acts relating to the child in Georgia and the work of all government organizations dealing with children are based on strict observance of the principle set forth in the Constitution that life is an inviolable

human right and is protected by law. Any infringement of the right to life is a criminally punishable act. Forcibly depriving a human being of his/her life is considered to be a crime in all cases; premeditated deprivation of life is included among the most serious crimes and is punished with the full rigour of the law.

75. Under the Education Act, educational establishments must provide for their students the conditions necessary for the protection of their health and their physical development. Medical services to educational establishments are supplied by public health agencies on a contractual basis. Therapeutic educational establishments are provided at State cost for students requiring prolonged medical treatment (art. 42.1-3).

76. In the case of persons with deviations from normal development, the State creates the conditions necessary to rectify their development and adapt them to life in society. Special educational establishments providing treatment, education, training, social adaptation and integration in the life of society exist for children in this category and for those requiring prolonged medical treatment. Privileges with a view to their education and training are granted to persons disabled from childhood (Education Act, art. 41.1-2). For more detailed information on this problem, see below.

D. Respect for the views of the child (art. 12)

77. The Constitution recognizes the right to freedom of speech and thought for all (art. 19.1); everyone has the right freely to express and disseminate their views in any form (art. 24.1). Thus freedom of opinion in Georgia is guaranteed for everyone, including children. The law specifies in greater detail the instances in which the views of the child are given special attention, depending on age. The criterion which determines the legal effects of a child's expression of his/her views is age, as well as the relative ability to formulate and express those views.

78. Although a minor does not normally have the right to engage in legal procedures independently (cf. paras. 27 and 28), his/her views can be heard in the course of procedures required by law. The section of this report entitled "Definition of the child" specifies the rights of the child in connection with the administration of justice and in matters of civil law.

79. For a description of ways in which the views of the child are taken into consideration at school and of mechanisms to ensure the enjoyment of this right, see below.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

80. The law provides that the parentage of a child whose parents are married to each other is determined by the parents' marriage certificate. The parentage of a child whose parents are not married to each other is determined on the basis of a joint declaration made by to them to the registry office. In the absence of a joint declaration, paternity may be determined by a judicial procedure. The names of a mother and father who are married to each

other are entered in the register of births on the basis of a declaration by either of them. Where the parents are not married to each other, the name of the mother is registered on the basis of her declaration and that of the father on the basis of a joint declaration by the parents or of a court decision.

81. The birth of a child must be declared by one or both parent(s) to the registry office of the place of birth of the child or the place of residence of one of the parents, after which a birth certificate is issued. Registration is effected immediately upon presentation of a certificate from a medical establishment. The law provides for measures which guarantee that the birth of the child will be registered if the parents are unable to declare it for any reason (Ministry of Justice decision "On the registration of civil status").

82. The child's forename is given by the parents by mutual consent. If the parents have different family names, the child receives the family name of the mother or the father, or else, by agreement between the parents, a double family name. Cases where the parents are unknown or where the child is born out of wedlock are regulated by law.

83. Under the Constitution, Georgian citizenship is obtained through birth or through naturalization. A Georgian citizen cannot have double nationality. Deprivation of citizenship is prohibited (art. 112.1 and 2, art. 13.2).

84. The question of the child's nationality is regulated by the Citizenship Act. A child both of whose parents are Georgian citizens is considered to be a Georgian citizen irrespective of the place of birth. A child found in Georgian territory both of whose parents are unknown is considered to be a Georgian citizen. Where only one of the parents is a Georgian citizen, the child is considered to be a Georgian citizen if he/she was born in Georgian territory, if he/she was born outside Georgia but one of the parents is permanently resident in Georgia, if the other parent is stateless or unknown. Children of stateless persons permanently resident in Georgia are Georgian citizens if they were born in Georgian territory. Change of citizenship by both parents entails a change of citizenship for the child until the age of 14 years; in the case of children aged between 14 and 18, change of citizenship is permitted only with the child's consent. Where one of the parents changes his/her citizenship, the child retains Georgian citizenship if it continues to reside in Georgian territory. If one of the parents relinquishes Georgian citizenship and leaves the country together with a child below the age of 14 to take up permanent residence abroad, this entails loss of Georgian citizenship for the child. Loss of citizenship by one of the parents does not entail change in the citizenship of the child. If one of the parents acquires Georgian citizenship and the other is a stateless person, the child becomes a Georgian citizen. A child previously without Georgian citizenship who is adopted by a Georgian citizen acquires Georgian citizenship. A child who is a Georgian citizen and who is adopted by foreign nationals retains his/her citizenship unless the adoptive parents petition otherwise. The consent of a child aged between 14 and 18 years is needed in order to change his/her citizenship where this change may be consequent upon a change of citizenship of the parents.

85. Where the parents have different citizenship, a person chooses the nationality of either parent at his/her own wish upon reaching majority.

B. Preservation of identity (art. 8)

86. As stated in paragraph 83, deprivation of citizenship is not permitted under any circumstances.

87. The right of the child to the preservation of its identity is not provided as such in Georgian law but is considered to go without saying. Dissolution of the parents' marriage does not entail a change of the child's family name. The parent with whom the child remains after the divorce has the right, subject to the best interests of the child, to petition the court that the child be given his/her name. Where the child has reached the age of 10, a change of name requires its consent.

88. The parents have the right to apply through the courts for the return of a minor child by a person who is keeping it without lawful grounds or in the absence of a court decision. In adopting a ruling, the court takes into consideration the best interests of the child.

89. The child's right to the preservation of the family environment may be restricted in its own interests if the parents are evading their duties or abusing their parental rights (cf. paras. 66-68). Where both parents are deprived of parental rights or where the child has been removed from the parents without deprivation of parental rights, the court places the child under the control of a guardianship and tutorship agency.

90. Kidnapping or any other form of unlawful restriction of liberty performed for profit or for any other reason is a criminally punishable act (Criminal Code, art. 133). The same applies to the substitution of one child for another done for profit or for any other reason (art. 127).

C. Freedom of expression (art. 13)

91. Freedom of speech and the right to disseminate one's opinions in oral, written or other form are guaranteed for all by the Constitution (arts. 19.1 and 24.1). Persecuting a person for reasons connected with the exercise of free speech is prohibited, as is the restriction of that freedom provided its exercise does not infringe the rights and freedoms of other persons (art. 19.2-3). The enjoyment of the right freely to receive and disseminate information can be restricted by law subject to the conditions required in a democratic society in order to ensure State and public security, territorial integrity, prevention of crime, to protect the rights and dignity of others, to prevent the dissemination of classified information and to guarantee the independence and impartiality of justice (art. 24.4).

92. The mass media are free. Censorship is prohibited (art. 24.2). The enjoyment of this freedom may be restricted by law subject to the conditions set out in the preceding paragraph.

93. Freedom of intellectual creativity is guaranteed and the right to intellectual property is declared inviolable (art. 23.1). Censorship in the

sphere of creative activities is not permitted. Seizure of creative works and the banning of their dissemination are prohibited provided such dissemination does not infringe the rights of other persons (art. 23.2-3).

94. The right to freedom of expression is reflected in a wide spectrum of printed periodicals financed by the State, independent sources or political parties. Any political party or public organization is entitled to have a press organ of its own. Independent radio stations and television companies broadcasting to all or part of the national territory have gone on the air in the review period. Objectively speaking, their operation is hampered by the energy crisis, as a result of which the population receives electric current for only 4 to 6 hours a day during most of the year. Journalists are entitled freely to express and defend their opinions except in the cases specified in article 24.4 of the Constitution.

95. Foreign publications are accessible to everyone, setting aside the question of their price which is sometimes very high for Georgian citizens. There are no restrictions on importing and disseminating such publications.

96. A department for children's programmes has been operating for many years within the Georgian broadcasting corporation. Children and adolescents take part in the preparation of the programmes or participate as guests.

97. The Criminal Code qualifies the following acts as criminally punishable: making, disseminating or advertising pornographic works, publications, pictures or other objects of a pornographic nature (art. 232); making, disseminating or showing films, videos or other works advocating violence or cruelty (art. 231.1).

98. The national parliament is currently considering a bill on the mass media. The Georgian mass media are participating in the process.

D. Access to appropriate information (art. 17)

99. Under the Constitution, the State promotes the development of culture and creates conditions for the unrestricted participation of citizens in cultural life, the manifestation and enrichment of cultural originality, the recognition of national and universal values and the deepening of international cultural relationships (art. 34.1).

100. Television is the information medium most accessible to children in Georgia. The State radio and television company broadcasts over two channels, principally in Georgian (except for information programmes). Some independent radio and television companies, most of them also broadcasting in Georgian, have gone on the air since 1992. State television has a Russian department, and the State radio has Armenian and Azerbaijani departments as well as a Russian one.

101. The development of cable and, to a lesser extent, satellite television, the possibility of receiving foreign (essentially Russian) programmes in the whole or part of the national territory, and the wide accessibility of videos of various kinds are stimulating the competitivity of local companies. The

choice between artistic values and crude entertainment is being made increasingly in favour of the latter. This applies, to a considerable extent, to programmes for children.

102. Georgia has about 260 children's libraries. Practically every school or cultural centre has a more or less extensive library.

103. The attainment of independence has led to changes in the sphere of the mass media. The distinguishing features of this sphere today are pluralism of information, a rapidly growing newspaper industry, and growing competition. The one-sidedness and careful dosage of the Soviet period are things of the past; we now have a situation of over-saturation with information. Most of the independent press is published in Georgian, although there are newspapers in Greek, German and Russian financed by private individuals, funds or public organizations. The State finances the publication of official gazettes in Russian, Azerbaijani and Armenian.

104. Regrettably, the subject matter of children's newspapers and journals has come to reflect the younger generation's interest in entertainment, violence, etc.

105. The commercialization of the press and of book publishing has made such negative aspects of western mass culture as violence, eroticism and horror accessible to children. The dissemination of such publications, for the most part imported from abroad, is almost uncontrolled. Despite existing prohibitions, the law enforcement organs are essentially inactive vis-à-vis such practices.

106. The publication of books for children is an acute problem, again as a result of the commercialization of publishing activities. Problems arising in connection with the publication of textbooks are discussed below.

107. Many reference books, foreign language manuals, dictionaries and books on computer technology intended for children and adolescents are being imported by private individuals and organizations. Unfortunately, owing to their high price such publications are not accessible even to the majority of adult users, let alone minors.

E. Freedom of thought, conscience and religion (art. 14)

108. The Constitution guarantees freedom of thought, conscience and religion for all and prohibits persecution on those grounds and coercion to express ideas concerning those freedoms (art. 19.1-2). The State recognizes the exceptional role of the Georgian Orthodox Church in the history of Georgia, but at the same time proclaims complete freedom of religious belief and creed and the independence of the church from the State (art. 9).

109. The Criminal Code (art. 149) provides for penalties in the form of corrective labour or public censure for hindering the performance of religious rites, if these do not disturb public order and are not accompanied by infringements of human rights.

110. Georgian society has always been distinguished by its tolerance towards the religious beliefs (or absence of belief) and creeds of others. Suffice it to say that a Georgian church, an Armenian church, a mosque and a synagogue coexist peacefully in each other's immediate vicinity in the Georgian capital. Neither from the legal nor from the practical point of view is there any hindrance to the enjoyment of the freedom of parents to provide their children with a religious or moral education in the light of their convictions. This forms part of the private family sphere in which no one has the right to interfere arbitrarily.

111. For the structure of society in terms of religions, please see the relevant section of the attached core document.

112. The Education Act applies only to secular education and presupposes the independence of educational establishments run by religious associations. Education is founded upon principles of recognition of, and respect for, universal and national cultural values, humanistic teaching and upbringing in a spirit of unity of values and harmony of spiritual and physical development.

113. According to the Constitution, freedom of conscience may not infringe the rights and freedoms of others (art. 19.3). The Citizens' Public Associations Act prohibits the establishment and activities of public associations (including religious ones) whose goal is the overthrow of the constitutional order by violent means, violation of the nation's territorial integrity, fomenting religious dissension, advocating violence and cruelty, or other criminally punishable acts (art. 3). A breach of this rule may entail a court investigation into the lawfulness of public associations, including religious ones (art. 17).

114. There is serious public concern about the spread of "sects", religious movements non-traditional to Georgia, some of which preach intolerance of other creeds and are distinguished by the totalitarian character of their directing structures or self-administration system, etc. No special law on citizens' religious associations that might clarify the situation in this regard has yet been enacted.

F. Freedom of association and of peaceful assembly (art. 15)

115. The Georgian Constitution provides that all have the right to form and join public associations, including trade unions (art. 26.1). Only the establishment of associations whose goal is the overthrow of the constitutional order by violent means, violation of the nation's territorial integrity, fomenting religious dissension, advocating violence and cruelty, or other criminally punishable acts is not permitted (art. 26.3). Suspension or prohibition of the activities of public associations is possible only through the courts (art. 26.6). The Citizens' Public Associations Act covers youth and children's organizations (art. 1) which receive financial assistance from the State (art. 5). As a rule, membership of a public association is open to citizens who have reached their majority. In the case of youth associations, however, the age of entry is determined by the statute of the association concerned (art. 11). Public associations are registered with the Ministry of

Justice; this does not constitute a form of control of the freedom of the association but, rather, provides a mechanism for verifying compliance with requirements under the law (art. 13).

116. In line with the general principles of Georgian law, the only restriction of the right of the child to freedom of association is a prohibition on forming political parties or participating in their activities.

117. Matters pertaining to citizens' forming or joining trade unions are regulated by the Labour Code, which guarantees the right of workers and employees to form trade unions (art. 217).

118. For the activities of Georgian trade unions, please see the initial report of Georgia under the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.37).

119. According to the Constitution (art. 25), all, except members of the armed forces, the police and the security services, have the right, without prior permission, to assemble publicly and without weapons either indoors or in the open. The law may require prior notification to be given to the authorities if the assembly or demonstration is to be held in a place where there is vehicle traffic or movement of persons. The right to hold meetings, demonstrations and processions according to the procedure established by law is also accorded to public associations (Citizens' Public Associations Act, art. 5). The police is responsible for ensuring the protection of participants in meetings, demonstrations and peaceful mass assemblies of citizens (Police Act, art. 8.31).

120. The authorities may interrupt an assembly or demonstration only if it assumes an unlawful character (Constitution, art. 25.3). The Police Act (art. 9.13) authorizes the police to stop unlawful meetings and other events, as well as peaceful events which represent a threat to public safety, life, health, property and other rights protected by law.

121. The Citizens' Public Associations Act, adopted by the national parliament in June 1997, contributes towards the implementation of the freedom of association and peaceful assembly. In particular, it provides that the organizers of assemblies, demonstrations, etc. must notify the event to the authorities five days in advance if it is to be held in a place where there is vehicle traffic or movement of persons (art. 8). An interesting feature is that the right to halt or disperse a demonstration is granted to a specific official appointed by the mayor's office if, in that official's view, the event has an unlawful character (art. 10). At the same time, the organizers have a right to challenge this official's decision through the courts, and if their action is successful the court must impose certain sanctions upon the official.

122. One of the objects of the Act is to instil in the population a taste for civilized, constructive forms of mass expression of public opinion which, on the one hand, will not permit anarchic behaviour by participants in the event and, on the other hand, will restrain the zeal that usually grips the authorities on such occasions.

G. Inviolability of privacy (art. 16)

123. Article 20 of the Constitution provides that "the private life of every person (...) his/her personal records, correspondence, telephone conversations (...) are inviolable". Restriction of these rights is permissible under a court decision or without such decision in the event of urgent necessity as defined by law. No one has the right to enter the home or other property against the will of the owner or to conduct a search without a court decision or in the absence of urgent necessity as defined by law.

124. According to the Constitution, freedom of person is inviolable; deprivation or restriction of personal liberty without a decision of the court is not permitted.

125. The provision contained in the Civil Code that the rights of parents cannot be used against the interests of the child (art. 1198.4) can be interpreted in a wide sense as preventing arbitrary interference with a child's privacy as well as conduct harmful to the child's dignity or reputation.

126. Violation of the rights of the child within the family is recognized as unlawful and entails civil or criminal responsibility for the parents or other persons. This applies, inter alia, to violation of the secrecy of adoption without the adoptive parent's authorization (Criminal Code, art. 125.1).

127. Anyone has the right to apply through the courts for a refutation of reports or pictures, including those published by the mass media, that infringe his/her honour and dignity, privacy, personal inviolability or reputation (Civil Code, art. 18.1-3,5). Where reports or pictures of this kind have been published deliberately, the victim may claim compensation for the damage caused (art. 18.6).

128. Such forms of infringement of personal honour and dignity as slander, insults or breach of the inviolability of the home are criminally punishable acts (Criminal Code, arts. 137, 138 and 141). The provisions referred to in this and the preceding paragraphs may not be directly applicable to children but they do undoubtedly play a role in guaranteeing the completeness and quality of the exercise of their rights.

129. To conclude this section, we may cite two further provisions of the Constitution having a direct bearing on the rights in question: "Every citizen of Georgia has the right, in accordance with established procedure, to acquaint himself/herself with information concerning him/her in the possession of State institutions ... No one may have access to information in the possession of official institutions relating to a person's state of health (...) or other private matters without the consent of that person, except in cases established by law where this is essential for the maintenance of State or public security, public health or the protection of the rights and freedoms of other persons" (art. 41.1,2).

H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37.1)

130. The Georgian Constitution provides: "Torture and treatment or punishment that is inhuman, cruel or degrading to a person's honour and dignity are prohibited" (art. 17.2).

131. In 1994 Georgia became a party to the Convention against Torture and submitted the initial report on its implementation of the Convention's provisions (see document CAT/C/28/Add.1). The report was considered by the Committee against Torture (see documents CAT/C/SR.278 and 279 and A/52/44, paras. 228-263).

132. The death penalty was abolished in Georgia in November 1997 and was replaced as the supreme penalty by life imprisonment. Even before that time, however, the law prohibited the application of the death penalty to persons below the age of 18, the maximum penalty for offenders in that age group being, then as now, 10 years of deprivation of liberty.

133. Georgian law does not provide for corporal punishment. Such punishment is unconditionally prohibited in schools and is rejected as an educational method.

134. For the treatment of juvenile offenders and the punishments and corrective measures applied to them, please see the appropriate sections of this report. The general principle in this area is that the convicted individual must not only be punished but also reformed and re-educated. It is absolutely not the purpose of punishment to cause physical suffering or to degrade human dignity (art. 22).

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

135. The rights and duties of parents in respect of their children are regulated by a special chapter of the Civil Code. The main provisions are the following:

- Both parents have the same rights and duties in respect of their children; the child has the right to live and to be raised within the family (art. 1197);

- Parents have the right and the duty to bring up their children and to care for their all-round development, the children's interests being unconditionally taken into consideration;

- The protection of the rights and interests of minor children is incumbent upon their parents, who are their children's legal representatives in relations with third parties, including the courts;

- The rights of parents cannot be used against the interests of their children (art. 1198);

- Parents have equal rights and equal duties in respect of their children even in the event of divorce (art. 1199);

- A parent living apart from the child has the right to spend time with the child and is under obligation to take part in the child's upbringing (art. 1202).

136. Parental responsibility in connection with the upbringing of their children is provided under both civil and criminal law. The Civil Code provides for judicial deprivation of parental rights in the event that those rights are abused or used in a manner harmful to the child (art. 1205). Where both parents have been deprived of parental rights, the child is placed under the control of a guardianship and tutorship agency. Deprivation of rights does not release the parents from the obligation to maintain the child.

137. All aspects of the maintenance obligations of parents are dealt with in the section of the Civil Code entitled "Maintenance obligations of parents and children".

138. Malicious evasion of payment of alimony and child maintenance (art. 124) and abuse of guardianship duties are considered to be punishable acts under the Criminal Code (art. 125).

139. For the legal capacity of minors, please see the "Definition of the child" section of this report.

140. According to the Education Act (art. 44), parents (or legal representatives) have the right to demand the protection of the rights of the child, to choose their child's form of education and educational establishment, to participate in the educational establishment's administration in accordance with its statutes, etc. Parents (legal representatives) are under obligation to care for the child's physical and psychological health, to instil in the child respect for the law and for human rights and freedoms, to provide the child with the conditions necessary for its education, etc. Education at home is permitted; where this is determined by the child's state of health, the parents may be granted financial aid.

141. For questions relating to labour, please see Georgia's initial report under the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.37, paras. 173-176 and 179-181).

B. Parental responsibilities (art. 18.1-2)

142. Georgian law on the family and the child is based on the principle that the child needs to be cared for and brought up within the family and that the State and society are in duty bound to assist the parents in caring for the child. Parents are provided with specific legal guarantees that their duties and obligations in connection with the care and upbringing of their children will be respected.

143. For the principle of equality of the parent's rignts and obligations in respect of their children, please see the relevant paragraphs of this report.

144. All matters relating to the upbringing of their children are decided by the parents by mutual agreement, in the absence of which disputed issues are settled by the court with the parents' participation. Parental rights and duties are exercised by both parents jointly or separately, as provided in the Marriage and Family Code.

145. Where the parents are living apart as a result of divorce or for other reasons, the question as to which parent the child will live with is settled by agreement between the parents. In the absence of such agreement, the dispute is settled by the court bearing in mind the interests of the child (Civil Code, art. 1201).

146. The primary responsibility for the care and upbringing of children rests with the parents. Where both parents have died, are unknown or have been deprived of parental rights, parental duties are performed by the child's legal representative. In the event of adoption, the adoptive parents become the holders of parental rights and duties.

147. State policy as regards assistance to parents in caring for their children leaves much to be desired. The situation in this regard has been adversely affected by the commercialization of medicine (including paediatrics) and education, the abolition of financial assistance for children (child allowance) and its replacement by special-purpose aid to the neediest citizens, and the general background of sharp decline in the population's standard of living during the period under review.

C. Separation from parents (art. 9)

148. The right of parents to apply to the courts for the return of their minor child from a person who is keeping the child without legal grounds or without a court decision is guaranteed by law. However, the court may reject such a claim by the parents if it is inconsistent with the child's interests (Civil Code, art. 1204).

149. Deprivation of parental rights may be imposed through the courts exclusively as an extreme measure. The grounds for this step are (a) systematic evasion or abuse of parental rights in a manner harmful to the children and (b) the parents' chronic alcoholism or drug addiction. A child both of whose parents have been deprived of parental rights is placed under the control of a guardianship or tutorship agency. A parent(s) deprived of parental rights is (are) not released from the obligation to maintain the child; in this connection, the court may at the same time decide the amount of child maintenance to be paid. A parent whose parental rights have been withdrawn loses all rights based on kinship in respect of the child. The child retains the right to residential space and other property rights based on kinship. The guardianship and tutorship agency may permit a parent deprived of his/her parental rights to see the child if this will not adversely affect the child. Restitution of parental rights can be effected through the courts if the causes for their withdrawal are no longer present. The wishes of the child are taken into account in this regard if the child has reached the age of 10 years (Civil Code, arts. 1205-1209).

150. If remaining with one or both parents is harmful to the child for reasons outside their control, the court may decide to remove the child from one or both parents without depriving them of parental rights and to place the child under the control of a guardianship and tutorship agency. When the grounds on which the child was removed are no longer present, the court may, upon application by the parent(s) and having regard to the interests of the child, decide to return the child to the parent(s) (Civil Code, art. 1210).

151. Children left without parental care for any reason, including those listed above, are placed under a guardian or tutor for the protection of their personal and property interests. The agencies of guardianship and tutorship are the local educational authorities and, in cases specified by law, the public health and social security authorities. A child may be placed under a guardian or tutor if it does not reside with its parents and if they are evading their responsibilities. If a child does reside with its parents but they are failing to fulfil their obligations with regard to his/her upbringing, the guardianship and tutorship agency may apply to the court for the child to be removed from the parents and placed under guardianship or tutorship (Civil Code, arts. 1275, 1278 and 1279). In appointing a guardian or tutor, the wishes of the ward are taken into consideration wherever possible. The guardianship and tutorship agency monitors the activities of the guardian or tutor (ibid., arts. 1282 and 1284). In the case of children being brought up in children's homes, the obligations of the guardian or tutor are vested in the administration of the establishment concerned (ibid., art. 1285).

152. Georgian law does not contain any formal provision denying the right of any family member to obtain information about the whereabouts of an absent parent in cases where a child has been separated from its parents as a result of State action. In particular, no practical impediment exists to the maintenance of permanent contact between a child and a parent serving a custodial sentence, etc.

D. Family reunification (art. 10)

153. Under article 22.2 of the Constitution, anyone lawfully resident in Georgia may freely leave the country, and a citizen of Georgia has the right freely to enter Georgia. Restriction of these rights is permitted only in accordance with the law in the interests of State or public security, public health, prevention of crime or administration of justice (ibid., art. 22.3).

154. The Emigration Act grants the right to apply for an emigration passport exclusively to citizens of Georgia who have reached their majority (art. 7). Where the person applying for an emigration passport is accompanied by children aged between 14 and 18, their consent to leave the country is required. Where the legal representative applying for an emigration passport is accompanied by minor children while the other legal representative remains in Georgia, the latter's consent to the children leaving the country is required. Children below the age of 18 emigrate together with their legal representatives or, if emigrating in order to join their legal representatives, do so accompanied by another adult (ibid.).

155. The right to emigrate may be restricted on the following grounds: criminal action brought against the person wishing to emigrate or his/her failure to serve the full court sentence imposed; civil action brought against the person wishing to emigrate or his/her failure to fulfil obligations imposed by the court; military service not completed where the person wishing to emigrate is not entitled to deferment; considerations involving the protection of State secrets which are still sensitive (ibid., art. 12).

156. During the period under review, 3,577 minors, principally ethnic Greeks, Jews and Armenians, left Georgia. In all cases the minors' emigration was determined by the departure of their parents (legal representatives) to join relatives permanently resident abroad.

157. The legal status of immigrants in Georgia is regulated by the Immigration Act, whicn provides, in particular, that immigrant status may be conferred upon an under-age foreigner who is the child of a Georgian citizen or the child below 18 years of age of an immigrant (art. 3). No cases of immigration of persons below 18 years of age were recorded during the period under review.

E. Recovery of maintenance for the child (art. 27.4)

158. The law stipulates that parents are responsible for the maintenance of their minor children. The amount of child maintenance to be paid is determined by mutual agreement between the parents or, in the absence of such agreement, by the court. In deciding upon the amount of child maintenance to be paid, the court is guided by considerations of ensuring the children's normal upkeep and upbringing, bearing in mind the financial situation of both parents and child (Civil Code, arts. 1212-1214).

159. The costs of maintaining a child placed in a children's establishment may be charged to the parents and collected from them on behalf of that establishment (ibid., art. 1216).

160. Where a respondent is officially registered as the child's parent, the court may, before considering the case on its merits, decide that certain amounts of child maintenance should be recovered from the respondent (ibid., art. 1217).

161. Malicious avoidance by parents of payment of child maintenance amounts determined by a decision of the court or of the judge, as well as avoidance by parents of maintaining their minor children for whom they are financially responsible, are criminally punishable acts (Criminal Code, art. 124).

162. Where a child has no possibility of receiving maintenance from the parents, the obligation to maintain minor children, if they require help, devolves upon their brothers and sisters having sufficient means for this purpose. A similar obligation to maintain their minor grandchildren, under the same conditions, devolves upon grandparents, and, in respect of stepchildren, upon step-parents (Civil Code, arts. 1223, 1225, 1226).

163. The law also regulates matters pertaining to the maintenance of children by foster parents (not including guardians and tutors) and child maintenance obligations in respect of de facto wards. A separate chapter of the Civil Code determines the procedure for the payment and recovery of maintenance, release from maintenance payments, and cessation of maintenance obligations.

164. As stated above, parents have the right independently to determine the amount of child maintenance to be paid. As a rule, this amount may not deviate significantly from the levels determined by law, namely, 25 per cent of earnings (wages) for one child, 33 per cent for two children and 50 per cent for three or more children. The amount may be reduced if the parent required to pay has other minor children who, if the maintenance were recovered in full, would be financially worse off than the children receiving maintenance.

F. Children deprived of a family environment (art. 20)

165. Children temporarily or permanently deprived of their family environment receive special protection and assistance from the authorities. The latter are responsible for providing children in this category with alternative forms of care, such as placing in specialized establishments or adoption. There are different special children's establishments depending on the children's age and their need for special care or medical treatment.

166. In Georgia there are at present 72 special children's establishments, in which 7,500 to 8,000 children are permanently maintained. These establishments are placed under the central administration and control of the Ministry of Education (63), the Ministry of Health (3), the Ministry of Social Welfare, Labour and Employment and the Ministry of the Interior (4). The ages of the children maintained in these establishments range from 3 to 18 years.

167. There are three infants' homes, two for babies from birth to the age of 3 and one for infants from birth to the age of 6. These homes are intended for partially or completely orphaned children, healthy children abandoned by their parents, and children with physical or mental deficiencies. The average number of children in each home is between 100 and 110. The infants' homes are placed under the control of the Ministry of Health.

168. Two specialized psycho-neurological boarding schools have been opened for children aged between 3 and 18 suffering from physical or mental deficiencies in an "acute" form. The average number of children in each establishment is 210. These boarding schools are under the patronage of the Ministry of Social Welfare, Labour and Employment.

169. Most of the children's establishments are controlled by the Ministry of Education (total number of children: approximately 3,800). They cater for children with impaired hearing or eyesight, children suffering from chronic diseases, those suffering from "moderate" mental deficiencies, partially or completely orphaned children, children left without parental care, children from needy families or families with five or more children, children living in areas where there are no ordinary schools, "problem" children and specially gifted children. The age range is 3 to 18 years.

170. The following categories of children are maintained in establishments controlled by the Ministry of the Interior: offenders below the age of 14 who have no parents or whose parents are unknown, and offenders aged 14-18 irrespective of their family circumstances.

171. Under the Education Act, children are placed in educational establishments of a special or correctional type with the consent of their parents (legal representative) on the basis of the findings of a special medico-pedagogical commission. In the absence of parental consent the matter is decided by the court. Special educational establishments are created for schoolchildren characterized by deviant behaviour. A schoolchild may be directed to such an establishment only by a decision of the court upon reaching the age of 11.

172. Institutional care for children is facing a number of serious problems, including: shortage of basic resources to cover running costs; almost complete dependence on humanitarian aid; the formal nature of admission, care and discharge procedures; the treatment of the children, which is punitive rather than educational in character; lack of an external monitoring mechanism; poor methodological preparation of the teaching staff, etc. All this contributes towards developing in the children a sense of their own inferiority, making them unprepared to become fully integrated in the life of society, encouraging antisocial behaviour, etc.

G. Adoption (art. 21)

173. Decisions concerning the adoption of orphan children and children deprived of parental care are prepared by the local authority's guardianship and tutorship agency and definitively adopted by the court of the child's place of residence. Where a child who is a citizen of Georgia is adopted by foreign nationals, the decision is prepared by the Ministry of Education as the central organ and is then referred to the court for a final decision.

174. Matters pertaining to adoption are regulated by the Civil Code, the Adoption Act (November 1997) and bilateral agreements. With a view to the correct application of adoption procedures, a system of registration of orphan children and children deprived of parental care has been elaborated, in accordance with which the question of putting them up for adoption is decided by the local guardianship and tutorship agency within three months. In the following three months, the Ministry of Education ensures the transfer of children being adopted to the part of the country in which they are henceforth to reside. If the child has not been adopted in Georgian territory during that period, the Ministry considers the possibility of adoption in another country.

175. Adoption of a child is permitted in cases where the parents have permanently abandoned the child or are dead and the next of kin have not assumed guardianship duties; where the child is in an institution and no one has come to visit him/her or shown any interest in his/her fate for six months; etc.

176. Guardianship and tutorship agencies under the control of the Ministry of Education, as well as the courts, are directly involved in the adoption

process. Consultations are conducted during the process with the Ministries of Justice, Interior, Health, Social Welfare, Labour and Employment, and Foreign Affairs, as well as with public organizations.

177. Under the legislation in force, adoption of a child having reached the age of 10 years is possible only with the child's consent. Divulging information about an adopted child is prohibited by law and subject to criminal prosecution. Thus the child has no possibility of obtaining information about its real parents.

178. Adoption of a child outside Georgia's borders is regarded as an alternative to adoption within the country. A child adopted abroad enjoys the same guarantees as a child adopted inside Georgia. Staff involved in the process of adoption to a foreign country do not receive any additional remuneration, as this forms part of their official duties as civil servants.

179. The living conditions of children adopted abroad are monitored by representatives of guardianship agencies and of the Ministries and departments concerned. Georgia systematically receives written information about the situation of adopted children abroad.

180. In the period from 1994 to 1997, 171 children aged between 6 months and 10 years, 97 of whom were girls, left the country as a result of adoption by foreign nationals. Of these, 109 were adopted directly from maternity homes or medical establishments and 62 from children's or infants' homes. One hundred and forty-one children were adopted in the United States, 23 in Canada, 5 in Spain, 2 in Belgium and 1 in Cyprus. Most of the children adopted abroad suffer from diseases of various kinds.

181. Some further aspects of Georgian law on adoption are cited below:

- Adoption is permitted exclusively in the interests of the child's welfare and well-being and in the expectation that the relationship formed between the adopted child and its adopted parents will be the same as between a child and its biological parents;

- Adoption of a child whose parents are alive requires their consent in writing unless the parents have been recognized as legally incapable or have disappeared without trace;

- At the adoptive parent's request, the adopted child receives the adoptive parent's family name;

- The child's forename can also be changed at the request of the adoptive parent and with the consent of the child if he/she has reached the age of 10 years. The change of forename and/or assumption of a new family name are noted in the court's decision on adoption;

- The date and place of birth of the adopted child may be changed at the adoptive parent's request in the interests of preserving confidentiality;

- Annulment of adoption is permitted in cases specified by law and only on the basis of court proceedings.

182. Internal procedures are currently in progress with a view to Georgia's accession to the Hague Conventions on Protection of Children and Cooperation in Respect of Intercountry Adoption (1993) and on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (1996).

H. Illicit transfer and non-return (art. 11)

183. Georgian law does not include a special rule against the illicit transfer and non-return of children. However, kidnapping and any other unlawful restriction of a person's liberty dictated by hope of gain or other considerations are considered criminally punishable acts. The Criminal Code (arts. 8.1, 133) classifies such acts as serious crimes and punishes them by deprivation of liberty for between 10 and 20 years. Trafficking in children is a criminally punishable act (ibid., art. 127.2).

184. Georgia has acceded to the 1980 Hague Convention on Civil Aspects of International Child Abduction. In this connection the President of Georgia has adopted a Decree whereby the obligations arising from the Convention are vested in the Ministry of Justice.

185. According to information supplied by the consular department of the Ministry of Foreign Affairs, two cases of children being abducted to a foreign country (the United States and Germany) occurred in 1997. In both cases the abductor was a divorced parent. Both children abducted to the United States have been returned to Georgia. It is worth noting that neither the Ministry of the Interior nor the Customs Department has any information about unlawful abductions of children to foreign countries.

I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

186. The law considers the following to be criminally punishable acts:

- Driving a person to suicide by cruel treatment or systematic degradation of dignity;
- Premeditated infliction of physical injuries, whatever their degree of gravity;
- Beating and torture;
- Rape, including rape of a minor;
- Sexual relations with a person below the age of puberty;
- Depraved acts in respect of a person below the age of 16;
- Homosexual acts, including acts committed with a minor;

- Abuse of guardianship duties;
- Forcing a person to perform or to refrain from performing any action;
- Death threats accompanied by the infliction of physical injuries, etc.;
- Insults, i.e. premeditated and gross degradation of a person's honour and dignity, etc. (see the relevant sections).

187. The legal situation with regard to parental responsibility for failure to care for children is discussed under articles 5, 9, 18 and 20. Intervention by the State and society takes the form of restriction or deprivation of parental rights, removing the child from the parents and placing it in the care of an institution, or adoption.

188. A department for the protection of the rights of the child has been established within the Ministry of Education, and all municipal and district education authorities have their own guardianship and tutorship agencies. The duties of these structures include identifying, to the greatest possible extent, cases of children in need of intervention and help because of an unfortunate home situation.

189. In 1996-1997 the central education board of the Georgian capital conducted a research project to ascertain the real legal situation of children at school, in the family and in society. Respondents included the schoolchildren themselves, their parents and members of the teaching profession. The research showed that the following are regarded as the main breaches of the rights of the child: corporal punishment and verbal insults by teachers (50 per cent), neglect of the child's personality, restriction of his/her freedom of speech and opinion, neglect of his/her views (15 per cent).

190. One of the most important functional duties of inspectorates for the affairs of minors consists in identifying unreliable families, keeping a record of parents whose conduct has a negative effect on the upbringing of their children, and carrying out preventive work among them. Where necessary, the inspectorates study reports or other information about acts of violence committed against a child and make recommendations to the local authorities (commissions for the affairs of minors) and eventually to the courts.

191. Upon a decision of the commission, parents who abuse their rights may receive various forms of punishment, as provided by law. As stated in paragraph 184, the court may impose deprivation or restriction of parental rights as a penalty. Seven persons were deprived of parental rights by the courts in 1996 and two persons in the first 11 months of 1997.

192. Work is currently in progress with a view to instituting the posts of "children's advocate" and "social worker". Negotiations with the Georgian section of UNICEF are under way with a view to retraining members of the teaching profession for this purpose.

193. A crisis centre for social and psychological assistance called "Ndoba" ("Trust") has been operating in Georgia since 1990. It has three sections: a children's club, a children's consulting room and a children's "confidential telephone", which can also be used by adults having problems with their children. The children's consulting room provides outpatient psychosocial assistance anonymously and using an integrated approach. The children's club is attended by children between the ages of 14 and 18 (present membership around 50) who have been victims of violence or have suffered serious stress as a result of the loss of a close relative. Their readaptation is aimed at removing the consequences of these events, etc. A non-religious Sunday school attended by up to 130 pupils has been established for children of displaced persons. A children's mental health programme is being carried out at the Centre by a voluntary experts' group.

J. Periodic review of placement (art. 25)

194. Georgian legislation in force does not reflect the right of the child receiving institutional care, protection or treatment to a periodic review of the conditions of the treatment provided. There is also no independent system for monitoring the situation of children in this category with a view to deciding whether the institutional care or treatment should be discontinued.

195. As already stated, institutional care establishments in Georgia are subordinated to four different departments. Their activities are guided by different normative acts and placed under the control of different government organs. Periodic reviews of children's establishments are therefore conducted at the interdepartmental level, except for their financial and economic activities, which are monitored by the Audit Chamber and the Tax Inspector's Office. Public organizations (the international organization "Women for Life and Peace", the children's federation and the children's fund) also take part in investigating the situation in children's establishments, but this is hardly a satisfactory solution. The situation in children's homes experiencing serious financial difficulties is being monitored by the parliamentary subcommittee on mother and child affairs, which has repeatedly described it as "critical" from the point of view of the conditions in which the children are kept.

196. In July 1997 the President of Georgia issued a Decree on giving greater attention to children's homes and boarding schools, according to which, in particular, heads of ministries and departments must take a special interest in the children's establishments placed under their control. Unfortunately, as press reports show, such "special interest" is often purely formal in nature.

VI. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6.2)

197. The survival and development of children is guaranteed by the Georgian Constitution (arts. 15, 16, 35.3-4, 36 and 37) and by acts of law and other normative acts. The well-being of the family and the rights of motherhood and childhood are protected by law and supported by the State (Constitution, art. 36.1-2). The care of children and their education until the age of

majority are the right and duty of their parents, with a certain amount of support from the State. Motherhood is placed under the special protection of the State; mothers are guaranteed maternity leave before and after confinement and free medical assistance during it, lighter working conditions and other welfare measures. Children born outside wedlock enjoy the same rights as those born within it, and children left without family care receive special support from the State.

198. Voluntary interruption of pregnancy is permitted only in a medical establishment. Performance of abortion by a doctor outside a hospital (maternity home) or under insanitary conditions, or by a person without higher medical education, is a criminally punishable act and is subject to various periods of deprivation of liberty (Criminal Code, art. 123).

199. Questions of social welfare, social insurance and protection of health during pregnancy, confinement and care of infants are discussed further on in this report. On the same subject, see also Georgia's initial report under the Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.37, paras. 169, 170, 266, 294, 295 and 297).

B. Disabled children (art. 23)

200. In 1955 Parliament adopted an Act on the social welfare of disabled persons which is fully in conformity with the requirements of the Declaration on the Rights of Disabled Persons of 1975 and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, 1993). Presidential Decree No. 665 of October 1996 approved a State programme of social welfare and medical and social rehabilitation of disabled persons for 1997-2000. A department for the affairs of disabled persons was established in 1997.

201. The Decree provides, in particular, for the strengthening and development of the financial and technical infrastructures of children's boarding schools and the improvement of their and medical and general facilities. To this end, the Department for the Affairs of Disabled Persons has elaborated an action programme which has been submitted for approval to the President of Georgia.

202. The programme provides for the equalizing of opportunities for disabled children in conformity with the Standard Rules and with the Convention on the Rights of the Child, introducing additional guarantees of enjoyment of those rights, carrying out repairs and maintenance work at boarding schools, providing them with transport vehicles, agricultural machines, film, television and video equipment, domestic appliances and other equipment of various kinds, and books on specialized and general subjects. Organizational improvements in the training of State-maintained children and in the medical assistance and rehabilitation provided in urgent cases are envisaged. The programme also provides for periodic in-depth medical examinations, symptomatic treatment for children suffering from chronic diseases, and measures based on sports therapy, medicinal bathing and other rehabilitation techniques. A budget appropriation of 1,200,000 lari was assigned to the execution of this programme in the period under review.

203. The following specialized establishments for children with physical or mental disabilities are in operation in Georgia: for children with physical or mental disabilities: for the blind (1) and vision-impaired (2), for the deaf (2) and hearing-impaired (2), for children suffering from scoliosis and infantile paralysis (1), for asthmatics (1), for children with a tuberculosis risk factor (4), for those with deficiencies of the gastro-intestinal tract (1) and for those with deviant mental development (1). Children in all these establishments are maintained at government cost. Medico-pedagogical commissions set up in each of these establishments as well as within the regional educational systems and the Ministry of Education decide to what establishment children in each category are to be sent. An integrated approach to child care is practised in the specialized establishments; teaching is dispensed by trained teachers, upbringing is in the hands of trained educators, the medical aspect is looked after by doctors, etc. Next to teaching, attention is given principally to preparing the children for day-to-day life and work. Retraining of the staffs of specialized establishments has been in progress for the past two years on the basis of an agreement with the Georgian section of UNICEF.

204. The greatest problem of special establishments for disabled children is insufficient financing. Thus, the sum of only 3 lari a day is allocated in the central budget for the maintenance of one child, while in establishments financed out of local budgets the amount varies between 10.25 and 0.6 lari a day. The problem of feeding the children is resolved in practice through humanitarian aid, the amount of which is diminishing.

205. According to data supplied by the Department for the Affairs of Disabled Persons, the supply of clothing and certain kinds of equipment, as well as medicines, to the special establishments has somewhat improved of late. In addition to budgetary allocations for the acquisition of medical supplies, the Department itself has acquired 600,000 lari's worth of medicines, and a further 280,000 lari's worth has been received in the form of humanitarian aid. The problem of heating premises during the winter months has also been resolved to a certain extent.

206. During the review period some of the special establishments have received humanitarian aid from various humanitarian organizations, essentially in the form of food.

207. In 1996, medical rehabilitation treatment was given to 100 children, and 136 children received stomatological treatment free of charge. In 1997, medical rehabilitation procedures were applied to 500 disabled children and 97 children received free passes to sanatoria, health resorts, etc.

208. Children with physical disabilities who are not covered by the institutional care system are taught at home by a visiting trained teacher. The practice cannot be considered widespread, only two such cases being reported by the Ministry of Education.

209. The Department for the Affairs of the Disabled in cooperation with the Ministry of Education and the Academy of Sciences has drawn up school curricula for disabled persons, including disabled children, which have been

circulated to foreign experts through the Internet and have received a positive assessment. Starting next year these programmes will be introduced at boarding schools and other educational establishments for the disabled.

210. Computerized registration of all categories of disabled persons residing in Georgia will be completed by the end of 1997. Individual programmes for the social welfare and social and medical rehabilitation of disabled children will be drawn up in 1998, due consideration being given to their ability to work, their physical and intellectual potential and other factors.

C. Health and health care (art. 24)

211. Under the Constitution of Georgia, everyone has the right to use health insurance as a means of access to medical assistance. Free medical assistance is provided in accordance with legal procedure under certain conditions. The State controls all health-care organizations as well as the manufacture of and trade in medical products (art. 37.1-2).

212. For the main aspects of the reorientation of our public health system, please see Georgia's initial report under the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.37, paras. 240-301).

213. An interdepartmental commission for the preparation of a State programme to improve the situation of women and children, composed of representatives of 10 ministries and government departments, was set up in December 1994. A national programme and plan of action forming part of the long-term national development plan for 1996-2000 has been drawn up with technical assistance from UNICEF. The object of the national plan is to improve the well-being of Georgian children in the light of the requirements of the Convention on the Rights of the Child.

214. The following are included among priority areas in the field of health care:

- Implementation of the national Safe Motherhood and Save the Children programme, which previously covered free medical services for infants from birth to 12 months and now also extends to children up to the age of 2 years;

- Implementation of municipal programmes on: cardio-surgical aid to children; provision of medicines to children suffering from diabetes; medical assistance to orphaned children and to children deprived of parental care. The latter provides for vitally necessary outpatient and in-patient medical care for children aged between 2 and 14.

215. The country's female and child population is also receiving assistance under other government programmes (cf. E/1990/5/Add.37, para. 299). National medical standards for the provision of medical assistance to women and children have been elaborated in accordance with these and other programmes mentioned earlier.

216. A department for the protection of the health of mothers and children was set up within the Ministry of Health in May 1997. The department is responsible for all matters under this heading as well as for organizing medical services for these categories of the population.

217. There are 2,500 paediatricians and 1,500 obstetricians and gynaecologists working in the country's medical and disease-prevention establishments. Scientific and training activities are conducted at three university paediatrics departments, four gynaecology and obstetrics departments and three scientific research institutions (for paediatrics, perinatal medicine, gynaecology and obstetrics, and generative and reproductive functions).

218. The difficult social, economic and political situation in Georgia in the last few years has had an adverse effect on the health indicators of women and children. The birth rate has been going down for several decades, maternal and child mortality rates are worsening, and the natural population increase is diminishing; indeed, a process of depopulation has begun in some areas.

Year	Number of births	Birth rate coefficient	Maternal mortality	Child mortality (birth to 12 months), total figures	Child mortality coefficient
1990	92 815	17.0	38	1 469	15.9
1991	89 091	16.6	33	1 220	13.7
1992	72 631	14.9	34	918	12.4
1993	61 594	12.6	22	1 129	18.3
1994	57 311	11.8	18	900	15.7
1995	56 341	11.6	30	738	13.1
1996	53 300	11.0	31	917	17.8

Source: Departments for Socio-economic Information and Statistics.

219. Registration of deaths is effected on the basis of a joint order of the Ministries of Health and Justice and the Department for Socio-economic Information. Periodic surveys of causes of death are carried out under the same joint order. In accordance with a WHO recommendation, a foetus of 22 weeks having a body weight of 500 g is now considered viable (the corresponding figures in the past were 28 weeks and 1,000 g respectively), and this has caused an increase in the stillbirth rate. Deaths are registered by place, time and age, with an indication of the cause of death; information on national origin, etc., is not recorded.

220. The highest death rate figures in 1996 were recorded in Adzharia (27.1), Racha-Lechkhumi (26.4), Shida Kartli (25.2) and Tbilisi (23.8), and the lowest

in Kharagauli (18.1) and Rustavi (17.3). Compared with the 1995 level, the death rate figure rose in 4 towns and 21 districts and fell in 1 town and 15 districts.

221. Neonate pathologies occupy first place in the pattern of child mortality (60 per cent). They are followed by pneumonia (14 per cent), gastric infections (3 per cent), acute respiratory diseases (3 per cent), diseases of the nervous system (2 per cent), accidents, sepsis (1 per cent each), etc. Of the 917 infants below the age of 12 months who died in 1996, 141 (15.3 per cent) died at home; of the 75 children between the ages of 12 months and 2 years who died during the same period, 66 (88 per cent) died at home. This very high percentage testifies to the inadequacy of our regional hospital networks.

222. In 1996, there were 695 registered stillbirths (12.9 per 1,000), or double the preceding year's figure, and the perinatal mortality indicator rose correspondingly. The number of babies dying in the early neonatal stage was 599 (11.3 per 1,000), or 3.15 per 1,000 more than the previous year. The causes of death were the following: pneumopathy, pulmonary atelectasis, birth trauma, asphyxiation, pneumonia, anomalies et al. Seven hundred and sixteen babies (13.5 per 1,000), or 3.6 per 1,000 more than in 1995, died in the neonatal stage.

223. The developments reported above were largely due to the insufficient efficacy of our neonatal services. The rise in stillbirths and the home mortality figures testify to weaknesses in the work of children's polyclinics and women's advisory services. The Ministry of Health is taking practical steps to correct the situation.

224. The maternal mortality figure has varied in the past two years between 54.7 and 55.6 per 100,000 live births. The main causes of death are: haemorrhage (40 per cent), hystoses (eclampsia and pre-eclampsia) (22 per cent), thrombo-embolic complications, extra-genital diseases, etc. The highest maternal mortality figures were recorded in Tbilisi, Kvemo Kartli, Imeretia and Megrelia. Although the State guarantees special help for women during pregnancy and confinement, many women fail to register with the advisory services and consequently are not placed under observation and do not receive treatment in the early stages of complications likely to occur during confinement, which eventually has an adverse effect on the maternal mortality figures.

225. The volume of all forms of international aid earmarked for children has been very impressive in the past few years. Particular mention should be made of assistance rendered by organizations such as AMCOR, UNICEF, WHO and ICRC and work done under the Atlanta-Tbilisi partnership programme. A joint project for the establishment in Georgia of three health centres for mothers and infants, prepared by MSF-Spain, MSF-Netherlands, the World Bank and the Ministry of Health, also deserves special mention.

226. The fact that the State medical programmes provide for the treatment and rehabilitation of all children irrespective of their origin, social status, etc., rules out any element of discrimination. Every child enjoys the right to have his/her own interests and opinions and the right to life and to

development. For the past two years, the practice of placing the newborn baby in the same room as the mother has been progressively introduced in Georgian maternity homes; this ensures the child's right to be with its mother and to be breastfed. Special attention is given to medical assistance for children who are orphaned or otherwise left without parental care; this is provided in the infants' homes in accordance with an established procedure under a separate government programme.

227. The political and economic upheavals of the past years have been clearly reflected in a marked deterioration of the mental health of our society as a whole and especially of children, the process of formation of the child's personality being the first to suffer. Physical or nervous stress reactions at an early age lead to serious deviations in the areas of reasoning and the will, as well as to creating a high anxiety level later in the child's life, and this in turn is conducive to the development of autistic behaviour in adolescence, disillusionment with study, and manifestations of various types of behaviour pathologies (psychopathic behaviour, alcoholism, drug addiction, criminal tendencies, aggression, sexual perversions, etc.), feelings of inferiority, etc. Combined with other factors, this results in slowing down the child's mental growth and development. In a situation where the previously available protective mechanisms no longer exist, the problem of such children is becoming especially acute, although it must be added that the mental deficiency rate does not exceed 5 to 10 per cent.

228. With a view to correcting the situation in this area, the national centre for the direction of public health is elaborating a paedology-social paediatrics programme which provides for collaboration with educational experts in the identification and rehabilitation of children with psychological problems, as well as for free treatment of children from social groups most exposed to the risk of stress reactions, free consultations for "street children", and a number of homes for orphaned children.

229. Medical services for schoolchildren are at present limited to preventive check-ups and first aid. Before entering school the child undergoes a complete medical examination at a children's clinic, the results of which are sent to the school establishment concerned. Throughout its schooling, the child continues to receive medical and preventive care at the children's polyclinic. In the past we used to have a system of school doctors, each of whom was responsible for an average of between 500 and 1,500 children depending on the size of the school. Village schools were serviced by district doctors, etc. The system proved its worth, which cannot be said of the present one; the children's polyclinics are incapable of properly monitoring the schoolchildren's state of health, the effects upon them of attending lessons and of school life in general, psychological difficulties, level of nutrition, etc.

230. The breakdown of the immunization system in the period between 1991 and 1993 has led to the re-emergence of previously eradicated diseases (diphtheria, whooping cough, tetanus, rabies). Difficulties with the supply of vaccines coincided with electric power supply problems, making it practically impossible to guarantee the so-called "cold chain" principle. In 1993-1994, UNICEF and other international humanitarian organizations delivered

vaccines and special refrigerating equipment to Georgia, but there are still problems with the training of medical personnel and with overcoming social prejudices against immunization. A mass programme of immunization presupposes, first of all, coverage of all children in the country and, secondly, ability to strengthen epidemiological and immunological supervision with the active involvement of educational, scientific, cultural, religious and other establishments and organizations and the mass media. Mention should be made of the tremendous role played by UNICEF in helping Georgia to carry out a consistent and planned immunization programme, reflected inter alia in a reduction in the number of cases of diphtheria and poliomyelitis.

231. The spread of venereal disease among minors has reached a critical level. Whereas prior to 1994 not more than 15-20 such cases were recorded annually in Georgia, 120 new cases of venereal disease (79 of syphilis and 41 of gonorrhoea) were recorded in 1994, 52 (26 of each) in 1995, and 61 (37 syphilis, 24 gonorrhoea) in 1996. Seven cases of congenital syphilis in children below the age of 2 were recorded in 1997. A State programme of prevention of venereal disease provides, jointly with the Ministry of the Interior, for measures aimed at the early detection, prevention and treatment of such diseases.

232. As of July 1997, 34 cases of infection by the AIDS virus (two women and 32 men) had been identified in Georgia. AIDS had already developed in 16 among them, and 8 persons had died. Seven new cases of HIV infection, five of them involving intravenous drug users, were identified in the first five months of 1997. According to estimates by WHO experts, Georgia today has at least 600-700 HIV-positive persons and persons with AIDS. The spread of AIDS in Georgia is due, in particular, to the following factors: widespread drug addiction; shortage of diagnostic testing systems, single-use hypodermic needles and sterilization equipment; increased migration; difficult epidemiological situations in terms of HIV infection in neighbouring countries (for example, six Georgian citizens contracted the AIDS virus in Ukraine); poor sanitary habits and lack of knowledge about AIDS among the population; traditional reluctance to use condoms; and shortage of AIDS specialists. A Republic-wide AIDS-HIV centre has been opened in Tbilisi, and municipal or district AIDS diagnosis laboratories are operating in various parts of the country.

233. For the right to adequate treatment, please see document E/1990/5/Add.37, paragraphs 196-199, 207-209, 221 and 222.

234. Poor nutrition has had a serious effect on some sections of the child population. Thus, lack of iodine in the diet of inhabitants of high mountain regions has led to a sharp increase in cases due to this cause, 20 per cent of such cases being Basedow's disease. Children aged between 7 and 15 are the worst affected. A State programme for the prevention of diseases caused by iodine shortage has been elaborated with a view to correcting this situation. The shortage of essential micro-elements in the diet has created centres of endemic goitre in parts of the country. The problem having assumed nationwide proportions, a programme to ensure the supply of micro-nutritional supplements was launched in 1995. As a first stage, iodine preparations and iodized salt are being supplied to the worst-hit districts.

235. A trend against breastfeeding has been observed in Georgia in recent years. During the Soviet period, the proportion of mothers breastfeeding their babies in the first six weeks of life did not exceed 30 per cent. In the succeeding period of crisis the figure fell to 22 per cent. The object of our breastfeeding programme, developed in cooperation with WHO and UNICEF, is to revive and develop an ancient tradition. The number of breastfed babies is already growing. The following steps have been taken pursuant to the Presidential Decree of January 1997 setting up a State-controlled infant feeding system: in cooperation with UNICEF, study seminars on infant feeding for medical personnel in mountain regions; preparation of a State standard for specially adapted nutritive blends (formulas) for infants. UNICEF has trained a group of doctors in assessing "child-friendly" hospitals. Two maternity homes have been selected to receive the title of "Baby-Friendly Home". Materials popularizing natural feeding methods are systematically broadcast on television and radio and published in the press. Events aimed at the propagation and study of the international marketing code for breast-milk substitutes have been conducted in various parts of the country.

236. A system of voluntary medical insurance through the private "Orion-Garant" company has been introduced for children aged between 1 and 14 years. The insurance covers clinical services in surgery (general and breast), urology, neuro-surgery, paediatrics, gastro-enterology, neurology and toxicology.

D. Social security and child-care services and facilities (arts. 26 and 18.3)

237. The Constitution does not provide a right to social security or social insurance. A well-defined social security system has been operating in Georgia ever since the Soviet period; it is based on a pensions system which includes old-age and disablement pensions, pensions for victims of industrial accidents, sickness benefits, etc., all of which indirectly benefit children as well. However, owing to the current economic crisis the system's effectiveness has been reduced to a minimum.

238. The Labour Code provides for maternity leave consisting of 70 calendar days before and 56 days after confinement on average pay; additional unpaid leave for mothers of children under 3 years, the leave period being included for purposes of calculating seniority; guarantees concerning the recruitment and prohibition of the dismissal of pregnant women and women with children under 3, as well as of single mothers of healthy children under 14 or mothers of disabled children under 16; transfer to lighter work of pregnant women and women with babies of less than 18 months; nursing breaks for working mothers; and leave for women who adopt newborn babies.

239. Until September 1994 we had four types of monthly State allowances for children, as follows: birth allowance; from birth to 18 months; from 18 months to 6 years (until November 1992, this allowance corresponded to 50 per cent of the wage being earned, but this proportion has since been reduced); and from 6 to 16 years (20 per cent of the minimum wage). An additional allowance for mothers on maternity leave who already have a child

aged less than 3 years was introduced in November 1992. All types of allowances except pensions paid to persons disabled from childhood were gradually abolished between 1994 and 1996.

240. A new form of monthly social (family) assistance was introduced by Presidential Decree as from January 1997. This scheme covers non-working pensioners living alone and families composed of persons incapable of working or of unemployed persons living in towns. Such assistance is being received by 120,000 families (approximately 360,000 persons), and the total budget allocation under this heading in 1997 was 15,888,000 lari. A family of one receives 9 lari, a family of two gets 7 lari per head and families of three or more get 5 lari per head. Under the Presidential Decree, families owning a parcel of land of a certain size do not qualify for this type of assistance because it is assumed that they derive some profit from the land and cannot be considered unemployed. Single parents and families with a large number of children also do not qualify. Obviously, some families whose members are unemployed or incapable of working also include children. The average amount of assistance per head received by families in this category was 5.4 lari and the recipients included up to 80,000 children. It should be noted that the programme has failed to cover the full spectrum of low-income families, while practice has shown at the same time that recipients have included some fairly well-off persons or families. For this reason, an in-depth investigation into the problem of poverty is to be conducted in 1990 with the help of the World Bank. The research results will form the basis of a large-scale programme to combat poverty and to establish a social welfare mechanism for the poorest strata of society.

241. An integrated programme envisaging the payment of allowances for newborn infants is currently being elaborated in accordance with a presidential decree. The budgetary allocation for 1998 ensures monthly payments of 10 lari per infant (15 lari in "problem" areas - essentially, in high mountain regions).

242. Pre-school establishments occupy an important place in children's social welfare. Their function is to help working parents to combine parental duties with their employment. These establishments also provide opportunities for widening the children's horizons and actively assisting their socialization (association with other children, preparation for school, development of useful skills and habits). Unfortunately, this area, too, is far from problem-free. Thus, whereas Georgia had more than 2,400 pre-school establishments in 1989, the number had fallen to about 1,300 in 1997, while the number of children attending them had fallen from more than 200,000 to approximately 80,000. According to Ministry of Education data, the drop in the number of pre-school establishments occurred chiefly in rural areas for reasons of a social and economic nature. Unemployment among parents has meant that the services of these establishments were no longer needed. Until recently, the official fee was 0.45 lari per child, which made these establishments affordable to all. However, financing problems (pre-school establishments are financed out of local budgets) have made it difficult to pay for the children's food and the necessary utilities, obliging the Ministry of Education to introduce higher fees. This can hardly be regarded as the best solution, as it is liable to cause children to be withdrawn from these

establishments. Together with inadequate care on the part of working parents, this may entail negative consequences in the process of development of the children concerned.

E. Standard of living (art. 27.1-3)

243. As already stated in the relevant sections of this report, the responsibility for providing children with decent living conditions rests primarily with the parents. Specific aspects of the child's enjoyment of the right to parental care and financial support are discussed in the same sections. Children deprived of parental care for any reason are placed under a guardian or tutor, put up for adoption or placed in the care of a specialized institution. In every case the central task of the persons exercising care for the child is to provide him/her with the best possible living conditions depending on the financial possibilities of the private individual or on the State financing available to the institution concerned.

244. The standard of living of children is a reflection of the standard of living of adults. At this level, our unsolved problems outweigh the achievements. In August 1997 Georgia submitted to the United Nations its initial report under the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.37), which reflects the situation regarding the standard of living in our country. The relevant paragraphs are listed below.

245. For developments in the standard of living of the population between 1991 and 1997 and the factors affecting them, see paragraphs 182-195, 64 and 74-77.

246. For the right to adequate food, see paragraphs 196-202 and 207-209.

247. For the right to adequate housing, see paragraphs 226-237 and 239.

248. The Georgian Ministry of Economics does not provide indicators of the standard of living of children according to sex, age, region of residence, social status, etc.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

249. In the Georgian Constitution this right is formulated in the following terms: "All have the right to receive education and to choose its form. The State guarantees the conformity of educational programmes with international rights and standards. Pre-school education is guaranteed by the State. Primary education is compulsory. Basic education is guaranteed at the expense of the State. Citizens have the right to receive secondary, vocational and higher education in State educational establishments without payment and in accordance with procedures established by law (art. 35.1-3). Under the Education Act, the State recognizes the priority character of education and directs the national educational policy on that basis. The State supports educational establishments in accordance with procedures determined by law (Constitution, art. 35.4).

250. The Education Act defines, inter alia, the main goals and tasks to be achieved in the process of the educational reform which began in 1995. For the substance and the details of Georgia's educational policy, successes achieved and difficulties encountered, please see document E/1990/5/Add.37, paragraphs 306 and 308-316. For questions relating to educational establishments at various levels, their number, etc., see paragraphs 317-326 of the same document; for institutions for the care of children deprived of a family environment or suffering from physical or mental deficiencies of various kinds, see paragraphs 327 and 328; for the secondary, special and vocational education system, see paragraph 329.

251. In addition to schools where education is dispensed in the national language, there is a whole system of general secondary schools where children from national minorities can receive education in their native tongues. Information about this system can also be found in E/1990/5/Add.37, paragraphs 331-333. Furthermore, all Georgian higher educational establishments have a Russian-language section, while the Tbilisi Pedagogical Institute, in addition to Georgian and Russian, also has classes taught in Armenian and Azerbaijani.

252. Information about the situation with regard to non-State (private) educational establishments is to be found in paragraphs 335-339 of the previously mentioned initial report. For the number of students who dropped out of school for any reason in 1995-1996, see paragraph 340.

253. For problems arising within the Georgian educational system, see paragraphs 333, 342, 346 and 347.

254. Under the Education Act it is possible to receive education not only as an internal student attending an educational establishment but also as an extramural student (home instruction, education by correspondence or other long-distance methods of instruction). However, only internal study is financed by the State. The State encourages the setting up of non-standard (alternative) educational establishments where scientifically-founded pedagogical innovations are introduced, intensive training is dispensed, etc.

255. Primary schools admit children who reach the age of 6 in the year of entry. A student can be taught at the primary general education level until the age of 14 and at the basic general education level until the age of 18. There is no limitation on the age at which the secondary general education course may be completed (Education Act, art. 11.6-8).

256. An individual who has not received basic education has the right, until the age of 18, to receive one complete course of vocational education at the State's expense. Primary-level vocational education can be received together with general secondary education or without it. A person who has received basic education has the right until the age of 18 to receive at the State's expense one course of vocational training necessary for the performance of skilled work (Educational Act, arts. 12.1 and 2).

257. General education schools and extramural establishments have students' self-management bodies which take part in organizing and directing the life of the school. Students' representatives also take part in their school's teacher councils, although practice has shown that their role in this respect is sometimes purely formal.

258. The Georgian educational system participates in the "New approaches to the study of twentieth century history in schools" and "Civic education" educational programmes of the culture, education and sports department of the Council of Europe.

259. The introduction of a new economic system has obliged the State to abandon the financing and publication of school textbooks and of methodological and other manuals. A publishing company entirely responsible for financing the publication of school textbooks and Ministry of Education publications was established with the participation of private capital in 1994. Unfortunately, textbooks are being published only in the small print runs that customers can pay for and are therefore not available to the majority of children. As for audio and video educational materials and aids, they are not available to the overwhelming majority of schools. No assessment of the effectiveness of educational aids is possible because we have only just embarked upon an analysis of world educational models.

B. Aims of education (art. 29)

260. There is no substantial difference between Georgian legislation in force and the provisions of the Covenant on the Rights of the Child as regards the interpretation of the goals of education. The relevant provisions of the Education Act are reproduced below:

- The object of pre-school education is to prepare the child for school, to lay the foundations for forming the infant's mind, emotions and will, physical, moral and aesthetic education, and respect of the views and property of others, and to promote the strengthening of the young child's health.

- The object of the general education syllabus is to help the student to master the general foundations of school knowledge, to form a habit of making use of such knowledge, to absorb moral values, to develop personal creative gifts and mental faculties, to develop working habits, to strengthen the will, to assist the harmonious development of spiritual and physical powers and to promote civic, democratic and national-cultural awareness.

- The object of the vocational training programme is to help the student to acquire working habits and to master a trade (profession) essential for the performance of specific work.

- The object of the higher vocational education programme is to train and retrain highly qualified specialists in specific areas and high-level scientific and pedagogical personnel.

- The object of vocational retraining and upgrading of qualifications is to deepen and update the student's vocational knowledge and methods or to enable him/her to acquire a new profession in the light of changes in national educational standards, the student's own wishes, or developments on the labour market.

261. The State defines the relevant educational standards, which are compulsory for all licensed educational establishments. Special educational standards are defined for students with deviations from normal development. Compliance with these standards, in which the objects of education, depending on its character and level, are organically incorporated, is thus a condition of the operation of all accredited and licensed educational establishments.

262. The inclusion of a course on human rights and rights of the child in the syllabus of the final year of each of the three levels of general education (year 4, year 9, year 11) helps to acquaint the students with general human values and promotes awareness of their own rights and respect of the rights and freedoms of others. The training of teachers who deliver these courses leaves something to be desired, as questions relating to the protection of the rights of the child are not yet fully reflected in our teacher training and retraining programmes.

C. Leisure, recreation and cultural activities (art. 31)

263. Georgian law does not provide specifically for the right of the child to rest, which, because of its special nature, requires even more clear-cut guarantees than other rights. Schoolchildren have opportunities to spend their leisure times to good purpose by pursuing activities in which they are interested. According to the latest data, over 53,000 schoolchildren are permanently involved in so-called "circles" (groups based on interests). There are technical circles (645 with 9,064 participants), young nature lovers' circles (314 and 5,151), hiking circles (174 and 2,631), sports circles (169 and 2,727), amateur arts circles (938 and 1,515), etc. To our regret it has to be noted that, as a result of transition period difficulties, many Soviet-era cultural infrastructures for children (pioneer camps, youth centres) have ceased to exist or have passed into the hands of private owners who are exploiting them for commercial purposes.

264. A long-term State programme of measures designed to promote children's mental and physical health and the development of their creative and cognitive activities has been elaborated under a Presidential Decree entitled "Georgia's Future" (1997-2000). In addition to developing the creative and cognitive activities of our young people, the programme also envisages health-improving activities at Georgian resorts. This year, some 13,000 schoolchildren have taken holidays at health camps in resort areas under this programme.

265. Georgia has a widely developed cultural infrastructure which enables children fully to satisfy their requirements in the sphere of culture. The country's 43 theatres include two youth theatres (in Georgian and Russian) and six puppet theatres. There are 21 special secondary schools, 294 music

schools and art schools, 104 museums, 1,805 cultural centres, 21 parks and 2,250 libraries, including 260 children's libraries. All the above-mentioned establishments are sponsored by the Ministry of Education.

266. The problems of the transition period have had an adverse effect on the activities of the cultural infrastructure. In 1996, the number of cultural centres, people's theatres, parks of culture and rest, amateur groups and museums had fallen by an average of 30-50 per cent compared with the 1990 level. The smallness of the State budget is creating serious financing difficulties. As a measure of special assistance, State theatres have been granted the right to engage in commercial activities (this right is withheld by law from organizations financed out of the State budget).

267. A difficult situation in terms of the right of the child to satisfy his/her cultural needs has arisen on the film and video market. A tidal wave of films and videos of the lowest kind promoting mindlessness and violence or focused exclusively on entertainment has engulfed the young spectator. The same can be said of the book market, which is being replenished chiefly with foreign publications of a very specific kind - thrillers, fantasy fiction, erotica and sometimes pornography. Unfortunately, the commercialization of film and video distribution and the book trade leaves too little room for the genuine spiritual values in which young people ought to be educated.

268. Representatives of national minorities living in Georgia have opportunities for cultural self-realization, inter alia through their own cultural, educational and charity associations. There are Russian, Armenian, Azerbaijani and Kurdish cultural centres which assign an important place to activities involving children (Sunday schools, special-interest circles, various voluntary projects, etc.).

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children (art. 22)

269. In Georgia, the rights of refugees and displaced persons, including children, are protected by law. An Act on forcibly displaced persons was adopted by Parliament in June 1966 and a draft Refugees Act is currently under discussion. There is no law or other normative act relating to asylum seekers.

270. Under Presidential Decrees of September 1996 and October 1997, children of displaced persons are exempt from paying for their third-level education, which means that they receive complete secondary education at State expense. Every refugee and displaced person, including children, has received and is receiving regular humanitarian aid. In particular, powdered milk and baby foods are distributed to infants up to the age of 12 months.

271. There has been only one case of a surviving family member trying to trace a child. This case involved a grandmother who, with the help of the

Ministry for Refugee Affairs and Resettlement, was able to find her grandchild (1993). There is no special body or mechanism dealing with this problem.

272. No special studies or seminars have been conducted in connection with the rights of refugee children or children of displaced persons or asylum seekers. However, in 1993-1995 several major seminars were held under the auspices of UNHCR for staff of the Ministries for Refugee Affairs and Resettlement, Health, and Social Welfare, Labour and Employment and for representatives of non-governmental organizations. The seminars discussed the legal and practical aspects of work with refugees in emergency situations.

273. The total number of refugee children and children of displaced persons registered in Georgia is 71,091, including 1,042 aged under 12 months, 22,000 between 12 months and 6 years and 51,067 between 6 and 16 years. Of these children, 444 are full orphans. Georgian children account for the majority (73,706), but there are also Russians (140), Armenians (82), Abkhazians (32), Greeks (31) and others. Children of refugees and displaced persons enjoy the same guarantees in respect of medical services as other children living in Georgia.

274. In the field of assistance to refugee children and children of displaced persons, the Georgian authorities are actively cooperating with international organizations. In 1995-1996, children up to the age of 5 years were receiving food and other assistance from such organizations as AMCOR, CARE, Equilibre, Premiere urgence, Caritas Georgia, Feed the Children, UNICEF, the Norwegian Refugee Committee and ICRC. In 1995, 1,461 tonnes of food and a further 4,100 tonnes for children below the age of 5 were delivered to our children's establishments; the corresponding figures in 1996 were 1,353 and 3,116. Non-food aid was received by 354,850 children below the age of 5 in 1995 and by 288,184 children in 1996.

275. The UNICEF programme of immunization and psycho-social assistance continued to be implemented during the period under review. A project for the establishment of a Sunday school for refugees is under way. The German technical assistance agency is continuing a special programme for the treatment of children suffering from leukaemia and tuberculosis. MKKK is distributing school supplies and organizing foreign language classes and sports activities for children of displaced persons in Megrelia.

276. We regret that we do not have any effective mechanism for evaluating measures taken in respect of refugee children.

2. Children in armed conflicts

277. No special legislative act has been adopted in Georgia with a view to the protection of children affected by armed conflicts. In actual fact, however, considerable attention is being devoted to this problem. Practical steps taken in this area have included organizing summer holiday camps for such children and sending them abroad for psychological rehabilitation. Thus, several tens of children were sent to Italy, where they stayed with families and attended Italian schools, under a project of the Ministry for Refugee Affairs and Resettlement in cooperation with the "Italy-Georgia" society.

B. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

278. In line with the basic principles of the Constitution, the new criminal and criminal-procedural codes provide a number of guarantees for the protection of the rights of minors involved in the administration of justice with a view to achieving a corrective effect. The following are guaranteed under the Code of Criminal Procedure: precise ascertainment of the de facto circumstances of the crime or other unlawful act committed by a minor; correct application of the law; inadmissibility of an innocent person being convicted of a crime; protection of the rights of a minor suspected or accused or victim of a crime in the spirit of principles of humanism and justice. The Code specifies that only the court has the right to pronounce a minor guilty and to impose a penalty upon him/her or, where an unlawful act has been committed, to apply a preventive measure of a corrective nature. A minor is considered innocent until the crime committed by him/her has been proved in accordance with the procedure established by law and confirmed by a court sentence having legal force. A minor is not obliged to prove his innocence; the onus of proof rests with the accuser. Any point of doubt not confirmed in accordance with procedure established by law must be settled to the advantage of the minor suspected or accused of committing the crime.

279. The Code of Criminal Procedure guarantees the right of a suspected minor to legal defence. The court must provide the minor with the means of exercising his/her right to defence, explain his/her rights to him/her, and give him/her the possibility to avail himself/herself of those rights by every means permitted by law.

280. Everyone has the right to freedom, personal inviolability and the protection of his/her honour and dignity. Restriction of a minor's liberty without lawful grounds and in the absence of a legally established procedure is impermissible. A detained or arrested person must be immediately informed of the reasons for his/her detention, the crime of which he/she is suspected or accused and the grounds therefor.

281. A person whose liberty has been restricted unlawfully or without due grounds has the right to full compensation for damage suffered. The use against a minor involved in the judicial process, or any other minor, of methods dangerous to his/her life or health or degrading to his/her honour and dignity is impermissible. The use of methods of physical or psychological coercion in the conduct of investigative or judicial proceedings is prohibited. It is prohibited to carry out medical experiments on a detained or arrested person, to deprive him/her of sleep, food or water or unduly limit the above, or to place a minor in conditions harmful to his/her health or degrading to his/her honour.

282. At the discretion of the court, cases involving crimes committed by persons below the age of 16 may be heard in fully or partially closed sessions of the court, if one of the parties so requests.

283. According to procedural standards, justice is administered in the Georgian language and, in Abkhazia, also in Abkhazian. A minor participating in the trial who does not know, or has insufficient knowledge of, the language in which the proceedings are conducted has the right to make declarations, testify or provide explanations, and submit petitions in his/her native language or another language with which he/she is familiar, and to use the services of an interpreter. A minor participating in criminal proceedings may appeal against the actions or decisions of officials or of the organ conducting the trial.

284. For other points connected with the administration of justice in respect of minors, please see the section "Definition of the Child".

285. If the court considers that a person below the age of 18 has committed a crime which does not represent a danger to the public and that he/she is capable of reform without a criminal penalty, it may apply to such a person the following compulsory measures of a correctional nature:

- Public apology to the victim in a form determined by the court;
- Reprimand or severe reprimand;
- Warning;
- In the case of a minor aged 15 or over and having an independent income, compensation of the damage caused;
- Placing under close supervision of the parents or persons replacing them;
- Placing under observation;
- Placing in a special correctional or preventive-remedial establishment.

Placing under the supervision of the parents, guardians, tutors or administrators of special establishments involves obtaining from them a written undertaking that they will ensure the minor's appearance before the investigating judge and in court, as well as his/her proper conduct.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))

286. Convicted minors serving a sentence of deprivation of liberty do so in the country's sole reform school, a corrective facility for persons of the male sex aged from 14 to 18 years. Thus the legal requirement that juveniles must be separated from adult convicts is complied with. The number of inmates in this facility in 1996-1997 was 479. At present there are 70 convicted juveniles at the facility, 16 of whom are aged 15, 22 are aged 16 and 32 are aged 17 and 18 years.

287. As a result of the reform of the prisons system, living conditions at the facility have been considerably improved. A medical section incorporating an infirmary and a secondary school with classes taught in Georgian and Russian (years 5 to 11) have been opened. An open-air sports centre with a swimming pool, sports grounds, etc., has been constructed with a view to maintaining the inmates' health, and a church has been built free of charge by members of the staff to provide for their spiritual welfare. The school syllabus includes religious history as a subject. All convicted inmates are guaranteed three meals a day and are supplied with bedding and other necessities. They can watch television and use the facility's library.

288. Convicted minors can freely correspond with their next of kin, who also have the right to visit them. The correspondence of convicted minors is not subject to censorship.

289. A service under the supervision of the procurator's office has been set up at the facility to protect the rights of inmates. The convicted juveniles' right to bring complaints is not subject to any restriction.

290. With a view to humanizing the penal system, extensive use is made of release on parole as provided by law, as well as of the institution of pardon.

291. Vocational training is to be provided and workshops are to be opened with a view to assisting the re-education process. Under the new Act on the serving of penalties, convicted juveniles can visit their families for periods of three days at a time.

292. A social welfare and crime prevention programme for minors up to the year 2000 was introduced by Presidential Decree in June 1996. In particular, the programme established a government commission, as well as municipal and district commissions, whose duties include finding employment for juveniles aged 13 to 18 years who have been prosecuted and have served a term of punishment. The commissions are also required to ensure that rehabilitation and prevention measures are undertaken in respect of "problem" minors.

293. Georgia has a special school in which adolescents aged between 11 and 15 who have committed an offence can be placed. There are currently 31 children at this school. A rehabilitation centre for "problem" adolescents up to the age of 18 is to be set up under the programme referred to in the preceding paragraph.

294. Of 318 minors convicted in 1994, 86 were sentenced to deprivation of liberty, 138 received a deferred sentence, and 88 received a conditional sentence. The corresponding figures in 1997 were 313, 89, 135 and 76.

295. The inspectorates for minors' affairs established within the Ministry of the Interior are required to keep minors with a criminal record under preventive supervision for a period of 6 months, which can be extended. Individual preventive measures are applied to juveniles in this category in cooperation with the commissions for minors' affairs, other relevant government organs, and non-governmental organizations.

C. Children in situations of exploitation

1. Economic exploitation, including child labour (art. 32)

296. Georgian law establishes 16 years as the minimum age at which a labour contract may be concluded. In some cases the minimum age may be higher; for example, persons below the age of 18 are not allowed to perform heavy or unhealthy work or to work underground. In some cases a labour contract may be concluded at age 15, but this requires the consent of the government labour inspectorates. Furthermore, students at vocational, technical or special secondary schools may be hired for work on reaching the age of 14 subject to the consent of one of the parents or of the guardian. An essential condition for this is that the work to be performed must be light, must not be harmful to the minor's health, and must not interfere with his/her studies.

297. The right of enterprises or institutions to dismiss workers below 18 years of age on their own initiative is restricted. At the same time, the parents (guardians) of juvenile workers, as well as bodies monitoring compliance with the labour laws, are entitled to demand the cessation of a labour contract concluded by a minor if continuing the work threatens his/her health or infringes his/her lawful interests.

298. The Labour Code provides limited working hours for minors. Juveniles aged 15 and 16 may not work for more than 24 hours a week, and those aged 16 to 18 for not more than 36 hours. Special rules governing the utilization and duration of holidays are provided for workers under 18. In particular, workers under 18 are entitled to leave of one calendar month a year. In labour relations they enjoy all the rights enjoyed by adult workers.

299. In 1996 Georgia became a party to ILO Convention No. 138 (1973) concerning the minimum age for admission to employment.

300. Legal guarantees concerning the labour rights of workers under 18 are difficult to apply in practice. The financial difficulties suffered by most families in the transition period have compelled adolescents to engage in individual labour activities or to find jobs in the private sector, with the result that regulations as to age are being infringed. Because of the economic situation, the State cannot fight such infringements by administrative means. At the present stage, given the difficult situation on the labour market, the State often finds itself unable to offer adequate work places to juveniles. Starting work too early represents a threat to the health and development of young people.

2. Drug abuse (art. 33)

301. Under article 252.3 of the Criminal Code, involving a minor in the use of narcotic drugs is punished by deprivation of liberty for up to 10 years. Involving a minor in the non-medical use of medicinal or other substances which produce a narcotic effect is also a punishable criminal act. In 1994-1997, 34 adults were prosecuted for crimes in this category.

302. In 1994, 47 minors (43 male, 4 female) were found to have had illicit contacts with drugs. The corresponding figure in 1995 was 29 minors (all male) and in 1996, 57 (55 boys, 2 girls). Twenty-nine minors (all boys) were identified as drug addicts in 1997.

303. The Ministry of the Interior has a department for the control of drug addiction and the drug trade. The problem of drug addiction has become extremely acute in the last few years, as Georgia is known to be far from last among the transit countries of the international drug trade. The Ministry of the Interior in cooperation with Interpol is taking steps to stop illicit drug trafficking. According to information available to the Ministry, in addition to "classical" drugs, juveniles are resorting more and more frequently to cheap toxic substances. Statistics show that the age of minors found to have had illicit contacts with narcotic drugs varies within the 15 to 18 range, although children of 13, 12 or even 10 years are also met with in this category.

304. There are special services under the Ministry of Health which provide medical assistance to narcotic drug users.

305. A State commission for the control of the dissemination of, and illicit trade in, narcotic drugs was established by Presidential Decree in June 1997. The commission is attached to the National Security Council and headed by the Minister of the Interior. Its tasks include the implementation of a State programme which provides, inter alia, for the elaboration of methodological recommendations for the prevention of drug addiction and for anti-drug propaganda measures.

3. Sexual exploitation and sexual abuse (art. 34)

306. The following are classified as crimes under the Criminal Code: involving a person in prostitution (art. 236); entering into a sexual relationship, including a relationship of a perverted nature, with a person below the age of puberty (art. 119); rape, in particular of a minor (art. 117); depraved acts involving a person below the age of 16 years (art. 120); homosexual acts involving a minor (art. 121).

307. The system of the Ministry of the Interior does not include a special structure to deal with the sexual exploitation or sexual abuse of children.

308. According to statistics, 10 minors aged 13-17 were victims of rape in 1994 and 3 minors, including a six-year-old girl, in 1995. In the same year, one case of homosexuality with a minor was recorded (the victim was 15) as well as one case of a depraved act (involving a five-year-old girl). In 1996 there were 9 cases of rape of minors aged 9-17 and one case of a depraved act involving a nine-year-old child. In 1997, there were 13 cases of rape of minors aged 13-17, three cases of depraved acts involving minors aged 9-16, and four cases of homosexual acts whose victims were aged 14 to 17.

309. As stated earlier, prostitution in itself is not a criminal act and a prostitute can only be prosecuted, if at all, under an administrative procedure. Press reports indicate that a not inconsiderable number of girls aged 16 and 17 are today involved in prostitution. Prostitutes aged 13 are

also met with. Ministry of the Interior reports quoted by the press suggest that the number of unofficial brothels in the capital has reached 20 and that a not inconsiderable number of minors are working there. There is no question of any form of control of the prostitutes' state of health; as a result, venereal disease is rife among them.

310. In connection with the problem of sexual exploitation of children, the Ministry of Education together with the Centre for the Psychological Rehabilitation of Adolescents is currently elaborating methodological recommendations on sex education for minors. Sex education programmes have been developed in collaboration with the Ministry of Health and classes under these programmes will start being taught in the current school year. The Ministry of Health has adopted a programme of compulsory treatment of venereal disease which provides for free-of-charge medical examination and 10 days of in-patient hospital treatment.

4. Sale, traffic and abduction (art. 35)

311. Abduction or other illicit restriction of a person's liberty and the sale of children are crimes (Criminal Code, arts. 136 and 127.2). The Basic Law expressly provides that the liberty of the individual is inviolable and that deprivation of liberty without a decision of the court is prohibited.

312. During the review period (1994-1997) there were four cases of minors (a girl and three boys) between the ages of 14 and 17 being kidnapped for purposes of gain.

D. Children belonging to minorities or an indigenous group (art. 30)

313. Article 38 of the Constitution provides that all Georgian citizens are equal in social, economic, cultural and political life irrespective of their language, national, ethnic or religious origins. In conformity with the principles and norms of international law they have the right freely, without discrimination or interference of any kind, to develop their own culture and to use their native tongue in private and in public. The exercise of minority rights must not run counter to the sovereignty, State structure, territorial integrity and political independence of Georgia.

314. For ways in which the above provisions are being implemented in practice, please see Georgia's initial report under document E/1990/5/Add.37, paragraphs 28-33, 35 and 36.